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ABSTRACT

The ways and means, types of relationships involved, and the conditions attached to the provision of funds accompanying the huge growth in federal sponsorship of college and university activities is examined. A historical review and analysis of the various factors that have entered into the relationship between colleges and universities and the federal government is presented. An attempt is made to describe and list all federal programs by type of award (grant, contract, etc.) and dollar amount that results in the transfer of federal funds to colleges and universities. The terms and conditions currently used in the various types of awards are also described, with some reference back to awards in previous years. The nature of the relationship between the federal government and academe with regard to various types of awards is assessed. Some of the conclusions resulting from the study include: (1) some of the problems encountered in federal funding can be traced back to the earliest grants in 1887 from the Department of Agriculture; (2) patent requirements are overly complicated but can be simplified by new legislation; and (3) mandatory cost-sharing continues to be irritating and expensive and should be eliminated. Attachments provide sample reporting forms and instructions for their use, the Office of Education agreement covering institutional participation in student financial aid programs, and the Chiles Bill (S. 431). (LC)

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# FEDERAL GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

By Raymond J. Woodrow

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U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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# FEDERAL GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

## I. INTRODUCTION

It was ninety years ago that Federal funds began to flow to colleges and universities in any systematic fashion. There has been no lapse since that time. In 1887 the funds amounted to $270,000 and in 1977 the estimated amount is nearly $5,000,000,000, an increase of 18,500 fold. It is the purpose of this paper primarily to track the ways and means and types of relationships involved and the conditions attached to the provision of funds which accompanied the huge growth in Federal sponsorship of college and university activities.

Section II of this paper is devoted to an historical review and analysis of the various factors that have entered into the relationship between colleges and universities and the Federal Government. By far the longest Section, it is based upon the best references that could be identified and located. As is the case for the remainder of this paper, all references used for the Section have been listed at the end of the Section. A plot approximating the total Federal obligations to colleges and universities, with the identification of significant developments by date is appended.

Section III is a unique attempt to describe and list all Federal programs by type of award (i.e. grant, contract, etc.) and dollar amount which result in the transfer of Federal funds to colleges and universities.

Section IV is a description and discussion of the terms and conditions which are used in the various types of awards today, with some reference back to awards in previous years.

Section V is an analysis of the nature of the relationship between the

Federal Government and colleges and universities with regard to various types of awards. The awards as they are now constituted or may be constituted under pending legislation are examined.

Section VI includes the conclusions reached as a result of this study.

## II HISTORY OF FEDERAL GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

The history of Federal grants and contracts to colleges and universities is long and complex. In the following pages an attempt is made to summarize this ninety year history in a manner that gives emphasis to the types of contracts, grants or other instruments used, with at the same time coverage of the Federal agencies involved and, where available, the total dollar volume of Federal sponsorship. A variety of references as listed at the end of this Section have been the only sources of information for the early years of this Section, but personal experience has been drawn on in addition to references for the years since 1941.

During the ninety year period there were some developments, legislation, or agencies which could be said to have been born and then died. Unless these have had some bearing upon later situations or are used in some way to illustrate a point later in this paper, they are not covered or discussed. Obviously there had to be many other omissions as well whose importance has not been considered great enough for inclusion.

### PREWORLD WAR II

#### The Morrill Act

The land-grant colleges were for many years the keystones of Federal grant and contract relationships with colleges and universities. They were first established in 1862 by the Morrill Act which granted to each state public land, or the equivalent in scrip if there were no public lands within their borders, both of which could be sold and the proceeds used for the establishment of colleges of agriculture and of the mechanic arts.[1] While the large majority of the institutions receiving land grant funds were or became state colleges or universities, a few were and remain private (MIT for example).

The Hatch Act

However, the land grant program was not per se a transfer of Federal funds to colleges and universities. The first recorded instance of a systematic transfer of funds was provided for by the Hatch Act of 1887. Under the Act each land-grant agricultural college was granted a fixed sum of money per year for the establishment of an agricultural experiment station and for the conduct of agricultural research.[2] Under today's nomenclature the Hatch Act payments are termed formula grants which are allocated to states or their subdivisions in accordance with distribution formulas prescribed by law or administrative regulation (see Section III). According to the Hatch Act the following were among the obligations imposed:

"Sec. 3. That in order to secure, as far as practicable, uniformity of methods and results in the work of said stations, it shall be the duty of the United States Commissioner (now Secretary) of Agriculture to furnish forms, as far as practicable, for the tabulation of results of investigation or experiments; to indicate from time to time such lines of inquiry as to him shall seem most important, and, in general to furnish advice and assistance as will best promote the purpose of this Act. It shall be the duty of each of said stations annually, on or before the first day of February, to make to the governor of the State or Territory in which it is located a full and detailed report of its operations, including a statement of receipts and expenditures, a copy of which report shall be sent to each of said stations, to the said Commissioner (now Secretary) of Agriculture, and to the Secretary of the Treasury of the listed States."

"Sec. 6. That whenever it should appear to the Secretary of the Treasury from the annual statement of receipts and expenditures of any of said stations

that a portion of the preceeding annual appropriation remains unexpended, such amount shall be deducted from the next succeeding annual appropriation to such station, in order that the amount of money appropriated to any station shall not exceed the amount actually and necessarily required for its maintenance and support."[3]

Starting out in 1887 with appropriations of $15,000 for each of 18 experiment stations for a total of $270,000, increasing in various steps to $4.3 million in 1930, and totalling $74.2 million in 1975, the agricultural research program initiated with the Hatch Act expanded and was modified by the addition of eligible experiment stations (primarily in early years) and by added appropriations and functions.

In connection with the Adams Act enacted in 1906 primarily for the purpose of expanding activities covered by the Hatch Act, the Secretary of Agriculture required that

"Expenses for administration, care of buildings and grounds, insurance, office furniture and fittings, general maintenance of the station farm and animals, ..... and other general expenses for the maintenance of the experiment stations, are not to be charged to this fund."[3]

A somewhat similar order to Directors of Agricultural Experiment Stations from the Secretary of Agriculture issed in 1925, in connection with the Purnell Act for more complete endowment of the stations, used the term "general overhead expenses" in referring to the types of costs which were not to be charged to the appropriations.[3]

Thus in these earlier Federal grants to colleges and universities there were demonstrated several of the important aspects of Federal grants and contracts which are still troublesome today, as follows:

1. Federal control over the research performed, albeit with a light hand as provided in Sec. 3. of the Hatch Act
2. Detailed periodic progress reports
3. Detailed expenditure reports
4. Loss of funds unspent at end of fiscal period
5. Overhead or indirect costs
6. Compulsory cost-sharing by disallowance of overhead costs

Smith-Lever Act

The next systematic transfer of funds from the Federal Government to colleges and universities after the Hatch Act was also in the agricultural areas and encompassed extension work for instruction (not college-course teaching) and practical demonstrations in agriculture and home economics (this would probably be termed "public service" in today's nomenclature). The Smith-Lever Act Act of 1914 provided for formula grants to land-grant institutions, which started out at $480,000 in 1914, grew to $7 million in 1928 and then to $182 million in FY 1975. While the transfer of funds were and are called grants, the problems of distinguishing between contracts and grants is evidenced by the fact that the payment of funds to an institution was conditioned upon the execution of the following:

> "MEMORANDUM OF UNDERSTANDING BETWEEN THE (IOWA) STATE AGRICULTURAL COLLEGE AND THE UNITED STATES DEPARTMENT OF AGRICULTURE REGARDING EXTENSION WORK IN AGRICULTURE AND HOME ECONOMICS IN THE STATE OF (IOWA).
>
> Whereas, (Iowa) State Agricultural College has, or may hereafter have under its control Federal and State funds for extension work in agriculture and home economics, which are and may be supplemented by funds contributed for similar purposes by countries and other organizations and by individuals within said State, and the United States Department of Agriculture has, or may hereafter have, funds appropriated directly to it by Congress which can be spent for demonstrations and other forms of extension work in the State of (Iowa).

Therefore, with a view to securing economy and efficiency in the conduct of extension work in the State of (Iowa), the president of the (Iowa) State Agricultural College, acting subject to the approval of the board of trustees of said college, and the Secretary of Agriculture of the United States, hereby make the following memorandum of understanding with reference to cooperative relations between said college and the United States Department of Agriculture for theorganization and conduct of extension work in agriculture and home economics in the State of (Iowa).

I. The (Iowa) State Agricultural College agrees:

(a) To organize and maintain a definite and distinct administrative division for the management and conduct of extension work in agriculture and home economics, with a responsible leader selected by the college and satisfactory to the Department of Agriculture;

(b) To administer through such extension division thus organized any and all funds it has or may hereafter receive for such work from appropriations made by Congress or the State Legislature, by allotment from its board of trustees, or from any other source;

(c) To cooperate with the United States Department of Agriculture in all extension work in agriculture and home economics which said department is or shall be authorized by Congress to conduct in the State of (Iowa).

II. The United States Department of Agriculture agrees:

(a) To establish and maintain in the Department of Agriculture a States Relations Committee, pending the authorization by Congress of a States Relations Service, which shall represent the department in the general supervision of all cooperative extension work in Agriculture and home economics in which the department shall participate in the State of (Iowa) and shall have charge of the department's business connected with the administration of all funds provided to the States under the Simth-Lever Act;

(b) To conduct in cooperation with (Iowa) State Agriculture College all demonstrations and other forms of extension work in agriculture and home economics which the department is authorized by Congress to conduct in the State of (Iowa).

III. The (Iowa) State Agricultural College and the United States Department of Agriculture mutually agree:

(a) That, subject to the approval of the president of (Iowa) State Agricultural College and the Secretary of Agriculture, or their duly appointed representative, the cooperative extension work in agriculture and home economics in the State of (Iowa) involving the use of direct Congressional appropriations to the Department of Agriculture shall be planned under the joint supervision of the director of extension work of (Iowa) State Agricultural College and the agriculturist in charge of demonstration work of the United States Department of

Agriculture in the (North and West) and that the approval plans for such cooperative extension work in the State of (Iowa) shall be executed through the extension division of (Iowa) State Agricultural College in accordance with the terms of the individual project agreement;

(b) That all agents appointed for cooperative extension work in agriculture and home economics in the State of (Iowa) under this memorandum and subsequent project agreement, involving the use of direct congressional appropriations to the Department of Agriculture, shall be joint representatives of the (Iowa) State Agricultural College and the United States Department of Agriculture, unless otherwise expressly provided in the project agreements; and the cooperation shall be plainly set forth in all publications or other printed matter issued and used in connection with said cooperative extension work by either (Iowa) State Agricultural College and the United States Department of Agriculture;

(c) That the plans for the use of the Smith-Lever fund, except so far as this fund is employed in cooperative projects involving the use of department funds, shall be made by the extension division of the (Iowa) State Agricultural College but shall be subject to the approval of the Secretary of Agriculture in accordance with the terms of the Smith-Lever Act, and when so approved shall be executed by the extension division of said (Iowa) State Agricultural College;

(d) That the headquarters of the State organization contemplated in this memorandum shall be at (Iowa) State Agricultural College.

IV. This memorandum shall take effect when it is approved by the president of (Iowa) State Agricultural College and the Secretary of Agriculture of the United States and shall remain in force until it is expressly aborgated in writing by either one of the signers or his successor in office."[4]

Date_____ _____
Pres. (Iowa) State Agricultural College

Date_____ _____
Secretary of Agriculture

Two institutions actually declined to accept the above memorandum, at least initially, "on the grounds that it interferred with the authority of the trustees of these institutions respecting the appointment and duties of extension officers."[4]

Again we see problems which recur today:

1. What is a contract and what is a grant? Most lawyers would definitely call the above memorandum of understanding a contract.

2. Federal control over the work and over selection of a program director.

National Advisory Committee for Aeronautics

The next development in Federal financing of activities at colleges and universities, and this time outside the area of agriculture, seems to have been research contracted for, starting in 1915, by the National Advisory Committee for Aeronautics. Not amounting to very much financially ($12,000 during 1915-18),[5] this contract research from NACA continued through World Wars I and II up to NACA's absorption into the National Aeronautics and Space Administration in 1958. The contract document used after World War II, and it was probably not changed very much throughout NACA's existence, was the simplest encountered in 36 years of personal contract relations with the Government. Less than three pages in length (from memory) it was a fixed price contract specifying the amount to be paid, the scope of research to be performed, the disposition of patentable inventions, the reports to be issued and little more.

WORLD WAR I

During World War I, other than for agriculture and NACA mentioned above there is little evidence of research for the Government carried on by colleges and universities, although there was undoubtedly some. A much larger endeavor

were the contracts granted in 1918 from the War Department both for vocational training and for the "Student Army Training Corps" to provide trained officers. No data as to contractual requirements are available, but they seem to have been reasonable since relationships including liquidation after the end of the war were amicable.[5]

Public Works Administration

During the years 1933 to 1939 the Public Works Administration made grants to state and other public institutions to help finance various types of college and university buildings. Originally limited to 30 percent of the cost of labor and materials, further legislation in 1935 authorized up to 45 percent to be paid for from the PWA grants. Almost $200 million was provided during the life of the program.[6] Copies of grant documents are not available, but they were clearly not awarded on a formula basis as were the agricultural grants discussed earlier. Project grants sometimes called discretionary grants, are probably the best nomenclature if the definitions of Section III are used, since awards were made on a discretionary basis project by project.

National Cancer Institute

It is in the area of health research that the next financial relationship occurs between the Federal Government and colleges and universities, although there had been some aborted programs under a National Board of Health (spending $30,000 in three years) back in 1879 and a special study of venereal disease (some part of $285,000) in 1918. In 1937 the National Cancer Institute was established and authorized to make grants-in-aid for research and training. During its first three years of operation $220,000 in grants were awarded, not all to colleges and universities. It has not been possible to determine the terms of the grants or their financial aspects, although it is reasonable to assume that they fit the definition of project grants given in Section III.[6]

The National Cancer Institute was absorbed into the Public Health Service with the latter's creation in 1944.

WORLD WAR II

NDRC and OSRD (most of this part based on reference 7)

Even before the United States entered World War II, on June 27, 1940 to be exact, the National Defense Research Committee was established. The NDRC and the later organization into which it was incorporated, the Office of Scientific Research and Development, established on June 28, 1941, played probably a greater role in the development of Federal financing for research in colleges and universities than any other Federal organization before or since. For the NDRC and the OSRD realized right from the start that the greatest practicable source of otherwise untapped scientific expertise lay in the colleges and universities, and it was therefore imperative that a form of relationship be developed that could best utilize this expertise.

Irwin Stewart, Deputy Director of OSRD, used the following words in his volume "Organizing Scientific Research for War:"[7]

"Ideally, the best scientific imagination in the country should be given free play on problems of military value without being harassed by excessive supervision or the observation of forms designed for other occasions.

"Yet Government funds were being expanded. In times past, there had been abuses in the expenditure of some Government funds, and for the prevention of such abuses in the future a formidable mass of regulations had been devised. The heart of the contract problem was to reconcile the need of the scientist for complete freedom with assurances that Government funds would not be improperly expended. One of the most significant contributions of NDRC and OSRD was the

writing and administration of a form of contract which reconciled these two requirements." (emphasis added)

In addition to form of contract, the NDRC and OSRD decided early to pay for the full costs of research performed, including a pro rata share of allocable indirect costs rather than to impose some unworkable scheme of paying only incremental indirect costs. The OSRD Contract Manual (Fiscal) described overhead or indirect costs under the following headings:

"A. Administrative and general expenses

B. Departmental expenses

C. Depreciation of building space used for performance of the subject work.

D. Depreciation of equipment used for performance of the subject work.

E. Interest on investment in buildings and equipment used for performance of the subject work.

F. Cost of maintenance and operation of facilities

G. Interest on average outstanding receivables

H. Cost of the use of technical libraries

I. Other specific expenses"[7]

It is remarkable how closely the above list parallels today's list of indirect costs, except for the exclusion of student services (which many institutions do not claim today) and research administration (which was non-existent then). What was allowable and is not now allowable is interest costs, covered by E and G above, which universities have been struggling for but never obtaining ever since the war ended. Unallowables were also far fewer.

In actual fact the practice followed by OSRD was in general to allow indirect costs in an amount of 50 percent of salaries and wages, which proved to be a reasonable approximation for institutions having a modest volume of

OSRD work. More exact indirect cost rates using the factors listed above were used in the case of larger university contractors where greater precision seemed necessary.

The OSRD contract itself contained about eight pages and can be summarized as follows:

WHEREAS clauses:

ARTICLE 1. (a) Subject work. "The Contractor shall, with the utmost dispatch and in accordance with instruction issued by the Scientific Officer, supply the necessary personnel and facilities for and conduct studies and experimental investigations in connection with ..." (The underlined phrase was undoubtedly accepted for patriotic reasons, and because the exigencies of war might necessitate quick changes. However, it was not implemented very often). Reporting requirements followed.

(b) Period of performance

(c) Termination provision with Government having right to terminate but agreeing to pay all termination costs

(d) Inspection provisions

(e) Prohibition of subcontracts on cost-plus-a-percentage of cost or payment of more than seven percent fee, plus prior approval of research and development subcontracts

(f) Requiring prior approval for purchasing motor vehicles, building additions costing more than $500, constructing buildings, or acquiring real property.

(g) Government furnished property provisions

(h) Definitions

ARTICLE 2. (a) Reimbursement for costs. Government will reimburse for "actual costs" in amount not to exceed ($ ) based on monthly vouchers as approved by the Contracting Officer

(b) Contractor not obligated to incur further costs after cost limit is reached.

(c) Vouchers itemized and supported as required by Contracting Officer

(d) "Actual costs" include the following:

(1) Salaries and wages plus social security

(2) Costs for borrowed personnel

(3) Materials and services costs

(4) Overhead at predetermined percentage of salaries and wages

(5) Communication and shipping

(6) Travel with travel cost limits

(7) Insurance

(8) Subcontracts

(9) Real property

(10) Termination

(11) Special costs as approved by Government

(e) Advance payment provision so that Contractor would not have to finance expenditures with his own funds.

ARTICLE 3. (a) Disposition of Personal Property. Deliver to Government or retain by paying fair price for personal property not expended or delivered.

(b) Disposition of Premises altered or constructed. Either retain by paying Government fair price or have premises restored at Government expense.

(c) Accountability for Property. Account for above property after termination.

ARTICLE 4. (a) Responsibility of Contractor. Contractor responsible for loss or damage to property if attributable to wilful misconduct or lack of good faith of an officer of the Contractor or of any other person having complete or substantially complete charge of an establishment where contract work is performed.

(b) Insurance. To be in form, amount and period as approved by Government

(c) Indemnity. Government shall indemnify Contractor, from such funds as may be hereafter appropriated by Congress for such purpose, against loss or damage to persons or property arising from contract performance, not compensated by insurance, in amounts found by Contracting Officer to be just and reasonable.

ARTICLE 5. Patent Provisions. The OSRD used both a "long form" and a "short form" patent clause, the "long form" being primarily for industry which had an established patent position to maintain. The "short form" was primarily used with universities and gave the Government the right to determine the disposition of all patents and patent applications resulting from the work.

ARTICLE 6. Security Provisions. This was a reasonable provision for classified war-related work

ARTICLE 7. Public Policy Provisions (a) Warranty against contingent fees

(b) No benefit to Members of or Delegates to Congress or Resident Commissioners

(c) Nondiscrimination because of race, creed, color or national origin

(d) Minimum wartime week of forty-eight hours

ARTICIE 8. Overtime premiums required for work in excess of eight hours per day by laborers and mechanics

WITNESS

Signatures

According to Irwin Stewart, $536 million was obligated by OSRD largely through contracts to all recipients for the years 1940 through 1946, although some of the funds were transferred to Government agencies. If the figure of $90 million given by Bush[9] for OSRD contracts to universities in 1943-44 is representative, then the contracts to colleges and universities from OSRD for the entire war period amounted to $300 million. The research and development programs of OSRD are well covered in James Phinney Baxter's "Scientists Against Time."[8]

Army and Navy

Although there were some Army and Navy contracts for military research and development to colleges and universities in other areas, undoubtedly the largest activity of this sort was carried on by the Manhattan District of the Army Corps of Engineers. The Manhattan District was created to take over the OSRD research and development work in atomic energy which was transferred in March 1943. Somewhat similarly the proximity fuze research and development work was transferred to the Navy in December 1944. The details of neither the Manhattan District nor the Navy contracts are available, but must have been quite favorable since the university contractors insisted on keeping the same contract numbers and most of the same provisions when the Atomic Energy Commission became the sponsor. Subsequent to the war years the major university laboratories taken over by the Atomic Energy Commission and by the Army or the Navy became known as Federally Funded Research and Development Centers; these are discussed in the last part of Section III.

During World War II as in World War I, particularly during the latter part of the war, there were military contracts to colleges and universities for the education and training of personnel. It has not been possible, even

though several military archivists have been contacted, to obtain any details about the nature of the contracts used or their total dollar volume.

Actually a postwar program but strictly emanating from the war were the Federal payments to colleges and universities for veterans' tuition and fees (The "G.I. Bill"). The amounts paid by the Veterans Administration were as follows per year ($millions):[6]

| | |
|---|---|
| 1945-46 | $ 61 |
| 1947-48 | 365 |
| 1949-50 | 307 |
| 1951-52 | 147 |
| 1953-54 | 44 |

Since these were payments for tuition and fees they cannot be termed either grants or contracts in the usual sense.

Public Health Service

The Public Health Service Act of July 1, 1944 consolidated and revised substantially all previous legislation in the nonmilitary Federal health area. The National Cancer Institute mentioned earlier was made a part. A significant portion of the research program of OSRD's Committee on Medical Research was transferred to the Public Health Service, effective January 1, 1946.[7] There is conflicting evidence as to whether the new instruments used were grants or contracts, although the writer leans in the direction of grants. $917 thousand in project grants (or contracts) were issued in 1946, not all to colleges and universities. Undoubtedly there were rules and regulations (known today as grant manuals) covering the allowable costs and other aspects as set out in the OSRD contract, but diligent searching has not revealed any so that a description and

discussion of grant terms must be delayed until later in this Section.

THE POST WAR ERA

Dr. Vannevar Bush, Director of the Office of Scientific Research and Development, drew upon his wartime years of experience in preparing his Report to the President, "Science the Endless Frontier." His primary recommendation, which few if any others were qualified by experience, stature, and position to make, was that there be created a National Research Foundation. The purposes were "The National Research Foundation should develop and promote a national policy for scientific research and scientific education, should support basic research in nonprofit organizations, should develop scientific talent in American youth by means of scholarships and fellowships, and should by contract and otherwise support long-range research on military matters"[9] (emphasis added)

The Office of Naval Research

But it was to be some time before anything similar to Bush's National Research Foundation was created. In the meantime, immediately following the war the Navy established an Office of Research and Invention which became a Congressionally authorized Office of Naval Research in 1946. The prime purpose of ORI and its successor ONR was to contract with colleges and universities for dual purposes of advancing knowledge in areas of importance to the Navy and of developing good relationships with academic talents. In 1947 ONR contracted for $22 million to colleges and universities and other nonprifit laboratories with by far the largest part being to colleges and universities.[10]

The Office of Naval Research developed a new technique in contracting, one that has been followed by a very few other agencies but far too few. A Basic Contract incorporated all of the general terms and conditions applicable to all

work done at a particular institution sponsored by ONR. Task Orders were issued to cover the scope of work, dollars obligated, indirect cost rate applicable, duration of the work, designation of a scientific officer, reports and very little else of importance. Thus the general terms and conditions had to be negotiated only periodically, such as annually, and not be part and parcel of every project.

The original ONR Basic Contract can be summarized as follows:

WHEREAS clauses

SECTION 1 - SCOPE OF CONTRACT

The Contractor agrees to supply all necessary personnel, facilities and materials and to use its best efforts to conduct the work specified in The Task Orders hereunder (This is much like the OSRD contract ARTICLE 1. (a), since the Task Orders continued to use words such as "in accordance with instructions issued by the Scientific Officer." However, ONR implemented this phrase more rarely than did OSRD).

SECTION 2 - ESTIMATED ALLOWABLE COSTS

(a) Contractor not obligated to incur further costs after cost limit is reached

(b) Contractor must notify Contracting Officer when he expects to exceed cost limit.

SECTION 3 - SUBCONTRACTS AND PRUCHASE ORDERS

(a) Prior approval required for

(1) Any purchase exceeding $2,500

(2) Any subcontract which involves research or development

(3) Acquisition of real property

(4) Construction or alteration of building costing more than $100

(5) Restoration of altered building

(6) Acquisition of capital scientific equipment costing more than $500

(7) Acquisition of any other capital equipment

(b) No subcontract shall provide for

a. Cost-plus-percentage-of-cost

b. Fixed fee in excess of seven percent

(c) Notice must be given of subcontractor or vendor claims

(The above are similar to OSRD ARTICLE 1. (a) and (f) but with more prior approval required).

SECTION 4 - COMPENSATION

(a) Costs will be paid as accepted by Government auditor for:

(1) Materials and services

(2) Salaries and wages of direct employees

(3) Personnel benefits, communication and shipping, insurance and other costs as approved or provided for

(4) Travel with travel cost limit

(5) Real property

(6) Indirect costs at percentage of direct salaries and wages set forth in Task Order.

(b) Vouchering procedure.

(c) Payments after costs incurred

(This Section parallels OSRD ARTICLE 2. (c), (d), and (e) except it does not have the important provision for advance payments.)

SECTION 5 - PROPERTY

(a) All purchased personal property belongs to the Government

(b) Title to Government property remains in Government

(c) Property records if required by Government must be maintained on non-expendable equipment costing more than $25

(d) Upon completion of Task Order all personal Government property to be disposed of as Government directs

(e) Upon completion of Task Orders all real property paid for by Government to be disposed of as Government directs

(f) Upon completion of Task Order all construction or alternation work to be retained by Contractor as a negotiated price or have premises restored at Government expense.

(g) Contractor responsible for loss or damage to Government property if used for purposes other than this contract or because of wilful misconduct or lack of good faith of Contractor's directions, officers, or representatives having complete or substantially complete charge of laboratory used for performance of contract work

(h) Government may require Contractor to repair or replace damaged or destroyed Government property with costs allocated as above.

(i) Subcontractors must insure Government property in their possession.

(The above Section has Government taking title to personal property when acquired, it requires property accounting during performance, and thus is more onerous than OSRD ARTICLE 1. (g), ARTICLE 3. and ARTICLE 4. (a)).

SECTION 6 - INSURANCE - LIABILITY TO THIRD PERSONS

(a) Contractor must maintain insurance as required and approved by Government

(b) Contractor will be reimbursed for costs of insurance properly allocable to contract and for uninsured liabilities to third persons with specified and unlikely exceptions.

(c) Contractor must notify Government of suits the risk of which is uninsured and turn over settlement to Government

(The above is substantially the same as OSRD ARTICLE 4. (b) and (c) except that (c) above has been added)

SECTION 7 - REPORTS AND INSPECTION

Reports as required by Task Order and inspection for authorized representatives

(substantially the same as OSRD ARTICLE 1. (a) and (d))

SECTION 8 - EIGHT HOUR LAW

Overtime premiums required for work in excess of eight hours per day by laborers and mechanics

(Same as OSRD ARTICLE 8)

SECTION 9 - TRANSFER OF CONTRACT AND ASSIGNMENT OF CONTRACTOR'S CLAIMS

Forbids transfer of contract or interest in or claim thereunder to third parties.

(Nothing like this found in OSRD)

SECTION 10 - RECORDS

(a) Records must be maintained and method of accounting subject to Government approval

(b) Documentary support of costs are detailed

(c) Records must be retained for five years

(d) Cost type subcontracts must have same provisions

(This Section is in considerably more detail than OSRD SECTION 2 (c) and accounting approval and record retention are new)

SECTION 11 - CONTINGENT FEES

Warranty against contingent fees

(The same requirement as OSRD ARTICLE 7. (a))

SECTION 12 - CLASSIFIED PROVISIONS

The requirements which pertain to any Task Order which is classified are set forth

(More detail is included than in OSRD ARTICLE 6.)

SECTION 13 - TERMINATION BY THE GOVERNMENT

(a) Government may terminate in whole or in part

(b) Obligations of Contractor or receipt of a notice of termination are set forth

(c) Contractor and Contracting Officer may agree on a termination settlement.

(d) If no agreement is reached, Contractor will be paid (1) costs up to termination date (2) costs for settling claims and commitments and (3) other reasonable costs approved by Contracting Officer.

(e) Partial payments of settlement are provided

(f) Government liability is subject to deduction for any other Government or subcontractor claims

(g) Records must be maintained for five years.

(This is much more detailed than OSRD ARTICLE 1. (c))

SECTION 14 - PAYMENT OF ROYALTIES

Contractor cannot unless approved by the Government pay any royalties for the use of patents.

(The OSRD contract contains no such provisions)

SECTION 15 - DISPUTES

Disputes to be settled, upon appeal by the Contractor, by the Secretary of the Navy or his authorized representative

(The OSRD contract containes no such provisions)

SECTION 16 - OFFICIALS NOT TO BENEFIT

No benefit to Members of a Delegation to Congress or Resident Commissioner.

(This is the same as OSRD ARTICLE 6. (b))

SECTION 17 - NONDISCRIMINATION

(a) Nondiscrimination because of race, creed, color, or national origin

(b) The paragraph (a) requirement must be included in all purchase orders and subcontracts

(Paragraph (a) is the same as OSRD ARTICLE 7. (c) but paragraph (b) has been added)

SECTION 18 - PATENT RIGHTS

Basically this Section gives the Government a royalty-free nonexclusive license to practice or cause to be practices for the Government all inventions resulting from contract work, except that the Government gets title if the Contractor elects not to file a patent application. The Government also gets the right to reproduce, use and disclose for any governmental purpose all Contractor delivered reports, data and information.

(This is a much more favorable provision for universities than the OSRD short form patent provision in ARTICLE 5.)

SECTION 19 - DEFINITIONS

SECTION 20 - AUTHORIZATION

This Section basically provides for the Government assuming liabilities of patent infringement by the Contractor.

(No similar provision was included in the OSRD contract)

WITNESS

SIGNATURES

Comparing the OSRD and the ONR contracts, we find eight pages in the former and eighteen in the latter, eight articles in the former and twenty sections in the latter. However, in reviewing substance there is not that great a difference since the ONR contract in a number of instances merely spells out requirements in greater detail without imposing any significantly greater burden. Nevertheless, the ONR contract is significantly more constrictive in the following respects:

1. More prior approval required
2. No advance payments provided
3. More detailed property accounting required
4. Records requirements and accounting approval are more onerous.

However, the ONR contract contains some provisions that were more advantageous than OSRD, as follows:

1. A disputes provision is added
2. The patent clause is much more favorable
3. Government assumption of patent infringement claims is added.

Starting with 1946, contracting with ONR, even for basic research, found much favor with colleges and universities and their staffs. The caliber of ONR personnel in addition to reasonable contract conditions had a great deal to do with the mutually favorable relationships.*

*The Army and Air Force took a long time in following the Navy's leadership in establishing ONR. The Army set up a counterpart called the Army Research Office in 1951, the Air Force established the Air Force Office of Scientific Research in 1956, neither by Congressional action.

Atomic Energy Commission

In 1946 the Atomic Energy Commission was created. It took over the contracts of the Manhattan District of the Army Corps of Engineers with certain universities and eventually some of these became the Federally Funded Research and Development Centers (FFRDCS) discussed in the last part of Section III, (these will be excluded from further discussion and any dollar figures until Section III). As time went by the AEC initiated other contracts with colleges and universities and eventually took over the high energy physics program which ONR had initiated. The AEC contracts were not as favorable as those of ONR, and in particular, as required by the Atomic Energy Act, the Commission took title to all patents resulting from the research.

Cost Principles

The War Department and the Navy Department had been accustomed to using what was known as the "Green Book" as a statement of principles for the determination of the allowability of contract costs. However, the Green Book was designed for profit-making industrial organizations and therefore poorly adapted for use with colleges and universities. Secretary of the Navy, James Forrestal, recognized this problem (probably stimulated by ONR) so in 1947 under his imprimatur there were brought together a group of War and Navy Department and university representatives to seek a solution. The result was the "Explanation of Principles for Determination of Costs under Research and Development Contracts with Educational institutions," [11] generally known as the "Blue Book". This statement was so successful that it was generally accepted by other agencies as well and no amendment was made for eleven years.

The "Blue Book" in its section on indirect costs and as set forth earlier, did not allow for departmental (administration) expenses because these were not

normally accounted for separately by colleges and universities, but as an approximately equal compensating offset all student service costs were allowed. The concept of fixed use allowances (2% for buildings, 6 2/3% for equipment) was substituted for depreciation to avoid the problems of determining proper depreciation lives. No interest was allowed. Research administration could be treated as part of general administration but not as a separate item.

Government Procurement Regulations

Prior to World War II Government procurement regulations were complicated, unwieldy and onerous which is why OSRD developed its own form of contracting. After the war and subsequent to the establishment of the Department of Defense in 1947, Congress passed in 1948 the Armed Services Procurement Act to streamline and codify military contracting. Following this, there was similar action for the civilian agencies by the passage of the Federal Property and Administrative Services Act of 1949.

Within DOD an ASPR Committee was established and it was not long before the Armed Services Procurement Regulations (ASPRs) began to flow, setting forth procurement practices and actual contract clauses for various sorts of situations and conditions. Federal Procurement Regulations (FPRs) for civilian agencies followed much later, only being issued first in 1959, and to a very large extent these copied the ASPRs.[12]

Research in 1950

Axt has estimated[1] that the following amounts of Federally funded research were carried on in 1950 by colleges and universities:

| Sponsor | Amount ($ Millions) |
|---|---|
| Depart. of Agriculture | $22 |
| Public Health Service | 11 |
| Other (mostly DOD) | 30 |
| Total | ~~$63~~ |

Extrapolating backward from the National Science Foundation Report on National Patterns of R & D Resources,[13] which gives a figure of $138 million for research in 1953, the Axt figures look somewhat low. Including the Smith-Lever and other non-research appropriations, the total amount for colleges and universities in 1950 was probably about $120 million.

The National Science Foundation

In 1950 the recommendations of Vannevar Bush finally bore fruit and Congress established the National Science Foundation with the authority to award grants (only Public Health Service and Agriculture previously had award authority of this kind) and scholarships and fellowships, all for basic research and education in scientific fields. A ceiling of $15 million was placed on appropriations for NSF, but this did not last too long. Dr. Alan Waterman, previously Chief Scientist for ONR and before that Chief of the Office of Field Service of OSRD, was named Director of NSF. Grants were awarded for various sorts of scientific research, but the terms and conditions (now known as grant manuals) were originally limited to revocation, patent rights, and reporting. Further conditions were developed as time went by and are reported later herein.

College and University Contract and Grant Relations

The developing contract and grant terms and conditions were beginning to impinge seriously upon colleges and universities who were becoming involved with the Federal Government. This was particularly true for contracts which the DOD and other agencies were designing with almost sole reference to where their largest amount of contracting was, i.e. industry. But contract provisions for industry were often unsuitable for colleges and universities. Thus, in 1951

the Engineering College Research Council of the American Society for Engineering Education organized a Committee on Relations with the Federal Government with R. J. Woodrow of Princeton University as its Chairman. By working hard at the task in hand that committee was able to achieve some changes in the basic contract clauses that the agencies had proposed, and to obtain special clauses for educational institutions in other instances. The ECRC Committee on Relations with the Federal Government continued its activities for more than 15 years until the Committee on Governmental Relations of the National Association of Colleges and University Business Officers, established in 1961 and described later, had solidified its position and by the addition of research administrators to its membership had come to represent adequately the research administration interests as well as the business officer interests in the governmental relations field.

Department of Health, Education and Welfare

The Department of Health, Education and Welfare was created by statute in 1953. Among the several agencies that fell within DHEW's cognizance were the Public Health Service, including the National Institution of Health among which was the National Cancer Institute, the first to provide grants to colleges and universities in the health field. Also there was the Office of Education having jurisdiction over the educational grants under NDEA and which are described a little later. These two parts of DHEW continue to this day to provide by far the largest amounts of funds to colleges and universities.

NSF and PHS Grants and Grant Manuals

Some of the aspects of Federal grants to colleges and universities were

described early in this history in connection with the Hatch and Smith-Lever Acts. The next definitive information available pertains to the grants employed by the National Science Foundation and the Public Health Service (particularly for the National Institutes of Health) in the 1950s.

Grants such as those from NSF and PHS seem quite simple on the surface compared with contracts. Generally they are one or two pages in length. However, in addition to the grant letters, these grants incorporate in one way or another documents called Guides or Manuals which contain terms and conditions applicable to the grants in addition to the terms and conditions contained in the grant letters themselves. Both documents must therefore be taken into consideration.

For NSF a simple grant in 1955 contains the following administrative requirements (in addition to stating the funds, duration, payment schedule, etc):

> "It is a condition of this grant that it may be revoked in whole or in part by the Foundation after consultation with the principal investigator(s) and the grantee, except that a revocation shall not affect any commitment which, in the judgment of the Foundation and the grantee, had become firm prior to the effective date of the revocation; and that funds not committed by the grantee prior to the conclusion of the work contemplated under this grant shall be returned to the Foundation.
>
> It is a further condition of this grant that disposition of domestic patent and other rights in any inventions or discoveries made or conceived during the research shall be the responsibility of the grantee; that disposition of foreign patent and other rights to any such invention or discovery shall be determined by the United States Government; that the grantee shall give the Foundation reasonable notice of application by the grantee or other person or institution for a foreign or domestic patent on any such inventions or discovery; and that upon issue of a domestic patent on any such invention or discovery, the patentee shall grant the Government an irrevocable, royalty-free, nonexclusive license for use of such inventions or discovery for governmental purposes.
>
> The Foundation desires that this grant be administered in general accordance with the Foundation's policies for research grants as stated in "Grants for Scientific Research," April 1955, and in conformity with other understandings reached between the Foundation and the grantee relating to this grant.
>
> Please acknowledge receipt at your earliest convenience."

The referenced "Grants for Scientific Research"[14] contains the following further administrative requirements:

"

General

The Foundation assumes that, once a grant is made, the principal investigator, operating within the policies of the grantee institution, is in the best position to determine the means by which the research may be conducted most effectively. Accordingly, the primary responsibility for the administration of any grant is one that is shared by the grantee and the principal investigator. The Foundation wishes to avoid any action which might diminish the responsibility of the grantee and the investigator for making sound scientific and administrative judgments. For this reason, the Foundation does not have any compilation of specific allowable and nonallowable costs.* Grantees and investigators are encouraged to seek the advice and opinions of the Foundation on problems that may arise. Unless otherwise stated, the giving of such advice should not imply that the responsibility for final decisions has shifted to the Foundation. The primary concern of the Foundation is that granted funds be used in a manner which will make a maximum contribution to the progress of science--and it is expected that grantees and investigators will also direct their efforts to this end.

Grant Period

Normally, Foundation grants are made for periods up to 5 years. As stated in the grant instrument the period is approximate; beginning- and ending dates are not specified. The grant period begins approximately on the date of the grant letter and extends for approximately the length of time specified. However, when progress of research under the grant is delayed and circumstances make it necessary to request an extension of the grant period without additional funds, it is the policy of the Foundation to permit extensions in time, upon written request.

Where it appears that the research contemplated will be completed within a reasonably short period of time after the approximate ending date, it will not be necessary to request an extension. However, if it appears that the time required will exceed 4 to 6 months, it is requested that the Foundation be informed and an extension requested.

* Emphasis added

## Budget

The Budget estimate for each research proposal reflects the magnitude and scope of the research work contemplated by the principal investigator and indicates the physical means by which he intends to accomplish the proposed research. In order that the Foundation may assess realistically the financial requirements of the research, it is requested that an estimate of the total cost of the project with an estimated breakdown of costs per year, be submitted. Funds requested from the Foundation should be indicated for each of the categories listed below. Contributions that other sources will make to the research should be listed in similar categories. Funds may be requested under any of the following categories so long as the item is necessary to the conduct of the proposed research.

Salaries:--This item should include a list of personnel; percentage of time each will devote to the research; present salary, rate of pay or stipend for each; and a total amount for salaries per year to be paid from the grant to each.

Where appropriate, funds may be requested for the purpose of defraying some portion or all of the salaries of personnel who will work on the research. The extent of such compensation from grant funds will depend on the degree to which its necessity may be justified. For research to be conducted under a Foundation grant to an educational institution, compensation at a rate comparable to monthly salaries during the academic year may be requested for work during the summer months.

When part or all of an individual's services are to be charged against the grant, it is expected that he will be relieved of a comparable portion of his teaching or other obligations. Grant funds may not be used to increase the monthly rate of compensation of staff members.

Permanent Equipment.--Itemize major items of equipment required. Normally, title to equipment purchased with grant funds will be permitted to vest in the grantee institution.

Expendable Equipment and Supplies.--Indicate in general terms the types of equipment and supplies that will be required.

Travel.--Indicate briefly the type, frequency, and applicability of travel to the research.

Publication Costs.--Indicate briefly any types of publication costs anticipated, including purchase of reprints.

Other Direct Costs.--Itemize other anticipated direct costs not included above.

Indirect Costs.--This amount may be up to 15 percent of the total direct costs in the grant request. Allowance for indirect cost will be included in the total amount of the grant only when requested and in no case will exceed 15 percent of the total direct costs.

Total.--Give totals by years of all costs, and a grand total."

With regard to the Public Health Service, the earliest available manual is dated November 1956. Entitled "Compilation of Administrative - Fiscal Procedure and Policy governing Grants and Awards,"[15] it has 53 pages and covers a large number of aspects not particularly pertinent here, such as internal organization, treatment of fellowships, etc. The pertinent aspects fall into two categories: (1) allowable and unallowable costs such as are at a later date covered by OMB Circular No. A-21; and (2) grant management. The allowable and unallowable costs which are treated include:

Construction

Consumable supplies

Entertainment

Equipment

Federal employees, payments to

Hospital bed costs

Indirect costs (15% of direct costs)

Institution - wide salary increments

Insurance

Laundry

Other expenses

Personal services

Petty cash

Postage

Renovation and alterations

Repairs

Retirement payments

Salaries

Social Security

Property taxes

Telegrams

Telephone

Time and leave

Travel

Those parts of the manual having to do with grant management are quoted verbatim as follows:

"

Audit

Field audits of the accounts of all Public Health Service grants are normally made after termination of the grant period and receipt of the final financial reports.

Disposition of Unexpected Funds

The following policy applies to all other research grants and training grants of the Public Health Service:

When the grant has been recommended for more than one year, the unexpended balance for each year will remain available until the end of the recommended period, further support may be requested. If approved, the amount of the first year of the additional period will be adjusted by any unexpended balance remaining in the previous grant. Deficits may not be transferred from one grant to another.

Financial Reports

Financial reports are required for all Public Health Service grants and awards except for (1) grants made to institutions for expenses of training postdoctoral and special research fellows and (2) research fellows and trainees paid directly by United States Treasury check.

Financial report is required from the financial office of the grantee institutions within 60 days after the termination of the grant, except where questions concerning obligations for equipment, placed on or before the termination date of the grant, are still unresolved. Under these circumstances the grantee institution should submit an interim financial report showing the total liquidated expenditures during the grant period and the outstanding amount obligated for equipment, as of the termination date. A further final financial report will be due as soon as all outstanding obligations have been liquidated or cancelled. In those instances where an obligation represents a purchase order for special equipment that cannot be cancelled or liquidated because of the delay in delivery, the grantee institution should submit a financial report six months after termination date of the grant with the request that it be accepted on a "tentative" liquidation basis. This report should show the total liquidated expenditures and the amount of the unliquidated obligations for special equipment.

A revised final financial report is required upon the liquidation of all items submitted on the "tentative" liquidation basis. The actual liquidation of the obligations for these special pieces of equipment cannot be charged to grant funds in excess of the total amount of the "tentative" liquidation. Where the total amount liquidated is less than the total obligations submitted on the "tentative" liquidation basis, the difference will be credited to the account and reflected on the revised final report. Charges for personal services, supplies, and reimbursement for travel must be placed against the grant in effect at the time the personal service is rendered or the supplies received, and the travel performed.

The grantee institution will be notified by the Division of Research Grants concerning the disposition of any unexpended balance, as finally reported.

Method of Maintaining Grant Accounts

Research and training grants are subject to audit by the Public Health Service. Wherever possible, the financial administration of a grant should be handled within the framework of the existing accounting system and procedures of the grantee institution. Any accounting system will be acceptable providing it furnishes the information required for the reporting purposes and basically meets the following essential requirements:

1. Maintains separate accounts for each grant and a separate account for each continuation year. A supplemental grant forms a part of the existing grant, and should be accounted for as such. There should be a subsidiary account for each expense category in the approved application.

s. Identifies all grant accounts: Public Health Service Grant No._____

3. Itemize all supporting records of grant expenditures in sufficient detail to show exact nature of expenditure.

4. Provides date of each expenditure which should be supported by a voucher or bill properly approved. A special voucher form is not necessary, ordinary invoices or bills being sufficient. (Separate orders should be issued for purchases chargeable to grant funds whenever possible, so that bills or invoices will not contain items chargeable to other funds.)

5. Maintains payroll authorizations to effect proper control on salaries and wages charged against grant funds. These authorizations should be approved by the respective grant investigators.

6. Maintains payroll vouchers for salaries and wages. If payroll voucher forms are not used, a statement should be prepared at the end of each pay period showing the names of employees, gross amount of salary due each, and net amount paid. This statement should be approved by the grant investigator and used as a voucher.

7. Maintains adequate records supporting charges for pensions, retirement, Social Security (F.I.C.A.) tax, etc.

8. Shows the grant number, account number, date and expense classification on the invoices or vouchers charged against grant funds.

9. Provides for payment by check. The redeemed checks should be on file for examination. Cash disbursements must be supported by receipts.

Methods of Payment

The following policy applies to research grants, career investigator grants, senior research fellowships, undergraduate training grants except those awarded by the National Heart Institute, as prescribed below under Full-Payment, and all graduate training grants except those awarded by the National Institute of Mental Health.

Full-Payment -- For all new grants and for the annual continuing support of the recommended period, payment of the full amount approved for each year will be made in one installment at the beginning of each grant period. During any period of recommended support, the unexpended balance for any year will be carried over into the next succeeding year as an additional amount available for that year. For undergraduate training grants awarded by the National Heart Institute, up to $5,000 unexpended balance for any year during the period of recommended support will be carried over into the next succeeding year as an additional amount available for that year.

Split-Payment -- When a grant is renewed for additional years of support beyond the previously recommended period, payment for the first additional year will be made in two installments: (1) a first payment of one-half the amount approved and (2) a second

payment, following the receipt of the financial report covering the preceding grant period. This second payment will be reduced by the amount of any unexpended balance from the previous grant period.

## Obligations

The term "obligation" includes all commitments based on purchase orders, invoices, payrolls, or other evidence of liability consistent with the institution's procedures which are unpaid at the end of the reporting period. Funds may be obligated at any time after the beginning date assigned to the grant even though check in payment may be delayed several weeks after notification of grant approval. Obligations against a grant are restricted to the approved period of a grant. Charges made prior to the beginning date or subsequent to the termination date may not be placed against the grant account.

## Patents and Copyrights

The Department of Health, Education, and Welfare patent policy prescribes that if any patentable discoveries or inventions arise out of the work aided by any grant or award received from the Public Health Service, the grantee institution and investigator (or fellow or trainee), in consideration of the grant (or fellowship or traineeship), are to report the matter to the Division of Research Grants, Public Health Service, and either (a) refer to the Surgeon General for determination, the question of whether such patentable discoveries or inventions shall be patented and the manner of obtaining and disposing of the proposed patents in order to protect the public interest, or (b) determine in accordance with its own policies whether such discoveries or inventions shall be patented and the manner of obtaining and disposing of the proposed patents. The latter course may be followed when as the result of formal negotiation the Surgeon General has accepted the policies of the institution for this purpose and has elected to leave to it the disposition of inventions developed with Federal assistance. Where discoveries or inventions are to be reported, the person concerned should ask the appropriate official of his institution to request of the Division of Research Grants the detailed patent statement and other specific instructions.

Where a grant or award is made without condition and a book or related material is privately published, the author is free to copyright the work and to make such arrangements with his publisher as if the Government had not contributed support.

## Progress Reports

Research Grants - Progress reports must accompany all requests for additional funds, except for those requests submitted at the end of the initial year of a new grant with one or more additional years of support originally approved. In order that the members of the national advisory councils and the study sections may have information as to the progress achieved,

the investigator is requested to submit 40 copies of the report, properly identified by grant number, name of investigator, institution, and title of project. Failure to submit a progress report at the required time may cause deferral of final action on a continuation request. Progress reports accompanying requests for additional support not provided for in a previous grant should be in sufficient detail to allow careful review. Those submitted with the short-form application used for years already provided for in a previous award may be limited to a one-page summary.

In case the grantee does not request continuation support, a final progress report should be submitted approximately three months after termination of the grant.

Distribution of progress reports is limited to the reviewing consultants.

## Publication and Publicity

Grantees, fellows, and trainees may publish results of any work supported by grant or award without review by the Public Health Service; therefore, responsibility for the direction of the work should never be ascribed to the Public Health Service. It would be appreciated, of course, where there is publicity given to the project, if the grantee would acknowledge Public Health Service support. It is requested, also, that publications carry footnote acknowledgement of the assistance from the Public Health Service. For the sake of uniformity, the acknowledgement should preferably be shown as follows:

This investigation was supported (in part) by a (research grant, fellowship, traineeship-give PHS identifying grant number) from the (name of particular Institute or Division) Public Health Service.

## Purpose of Grants and Awards

The purpose of Public Health Service grants and awards is to encourage and support research, investigations, and training in health, medical, dental, nursing, sanitary engineering, and allied fields, including the effective development and utilization of hospital services, facilities, and resources and for promotion of the coordination of such experiments and demonstrations, and the useful application of their results. These programs are not intended to replace support from foundations, private philanthropy, or private health organizations in the scientific fields related to health problems; rather, they are intended (1) to expand research training activities throughout the country, and (2) to encourage investigators and institutions to undertake research and provide additional training in neglected areas. In carrying out these objectives, the aim of the Public Health Service is to promote the highest quality of training and research without interference or control.

Rebudgeting of Funds

(See also Consumable Supplies; Equipment; Indirect Costs; Salaries; Other Expenses)

The following policy applies to all research grants, undergraduate training grants, cancer field investigation grants, career investigator grants. and senior research fellowship grants:

For the purpose of evaluation of applications for grants, proposed direct costs must be broken down by category of expenses, i.e., personnel, permanent equipment, consumable supplies, travel, or other expenses; however, after a grant is awarded to the grantee institution, the expenditures for direct costs of the approved project may be made at the discretion of the grantee. These expenditures must be made within the over-all policies of the grantee institution and of the Public Health Service. No funds may be transferred into indirect costs in excess of rates applicable to the grant effective at the time of the award, or as otherwise specified.

Records

(See also Method of Maintaining Grant Accounts)

Accounting records on research and training grants must be kept readily available until after the audit is made by the Public Health Service. Disposal of records will be in accordance with institutions or State regulations.

Termination Procedure

Grants and awards may be revoked in whole or in part at any time by the Surgeon General, provided the revocation shall not include any amount previously obligated.

Support will, however, normally continue through the period as originally planned and approved. The Public Health Service does not consider itself obligated to support a project beyond the years originally planned and approved, since requests for additional support must compete for funds available, with all other applications, both new and continuation, not having previously recommended support. Grantees should determine termination dates from the Statement or Letter of Award and preferably submit continuation applications for evaluation early enough to allow adequate notice of termination."

The greater amount of detail in the PHS manual compared with the NSF manual

may well have been due to two primary factors: (1) PHS had had more experience, and (2) PHS was granting more funds. That these are the likely causes can be considered proved, based on the fact that further time and greater expenditures have lengthened and complicated both manuals.

## FROM SPUTNIK TILL TODAY

### National Defense Education Act

When Russia orbited Sputnik in 1957, many things changed. One of the first was the enactment of the National Defense Education Act in 1958 which provided funds to colleges and universities for:

1. Student loans
2. The costs of National defense fellowships for graduate students

Other than the cost of training personnel in wartime or payments for veterans' tuitions and fees, these seem to be the first recorded payments to colleges and universities in connection with education and training of individuals. Ultimately these programs have progressed through a number of stages to the massive educational grants and loans listed in Section III under the Office of Education, Department of Health, Education and Welfare.

### Cost Principles

In 1957 ten years had elapsed since the "Blue Book" cost principles had been adopted. A significant increase in total volume of Federally sponsored research in colleges and universities had occurred, and many more than the military agencies were involved. A series of negotiation meetings were therefore arranged with representatives of Federal agencies, the American Council on Education, the Engineering College Research Council and a committee of the National

Federation of Colleges and University Business Officers Association. The result of the negotiations was a document issued by Bureau of the Budget as Circular No. A-21 "Principles for Costing Research and Development under Grants and Contracts with Educational Institutions."[16] It is to be noted that both grants and contracts are now included whereas the Blue Book only referred to contracts. That statement of principles has gone through a variety of changes and as of this writing a further and major revision is in the 23rd month of negotiations. One of the significant changes that took place along the way was a broadening of the principles to cover the costs not only for grants and contracts for research and development, but also the costs of education and training agreements. In 1973 the cost principles were transferred from the Office of Management and Budget (a new name for the Bureau of the Budget) to the General Services Administration and were given a new designation as Federal Management Circular No. 73-8. In 1976 they were transferred back to OMB.

As compared with the Blue Book, Circular No. A-21 again includes in the indirect costs an amount for departmental administration (as OSRD had done), it only allows, however, a small part of student services to the extent that these are used for students employed in Government projects, it permits either use charges or depreciation to be used for buildings and equipment, it does not permit interest (or computed interest) and it specifies more unallowable costs. Research administration is now spelled out as a specific category. For much more information and references on indirect costs see "Indirect Costs in Universities" published by the National Association of College and University Business Officers in October 1976.[17]

The Grants Act

Stimulated in part by Sputnik, by the emerging importance of research to a variety of Federal agencies, and by the scientific community in colleges and universities, Congress passed in 1958 what has come to be known as the "Grants Act." The key portion of that Act states:

> "The head of each agency of the Federal Government, authorized to enter into contracts for basic scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, is hereby authorized, where it is deemed to be in furtherance of the objectives of the agency, to make grants to such institutions or organizations for the support of such basic scientific research." [18]

The advantages of using a grant rather than a contract for basic research were urged by, among others, Dr. Waterman, the Director of the National Science Foundation. Among these advantages were:[19]

1. There are problems of adapting contract provisions designed primarily for procurement to the support of basic research

2. There is more likelihood of Government control over research performance in a contract

3. Accounting for property in a contract is more onerous (really part of 1)

4. The revocation procedure process for grants is simpler than termination in a contract

5. Advance payments are more readily made under grants than under contracts.

Unfortunately, the law as passed did not define what a grant is. Nor was a grant defined by previous laws authorizing the Department of Agriculture, the Public Health Service and the National Science Foundation, itself, to issue grants. In a thoroughly referenced and soundly based article related to Federal

of research, John J. Grossbaum, a Government attorney with wide experience, has the following to say:[20]

> "Over the years, a comprehensive body of law relating to public contracts has developed and is continually being refined. Public contract law is founded on statutes, regulations, and decisions of the courts and the Comptroller General too numerous to cite. On the other hand, the substantive law relating to Federal grants, compared with the established law of public contracts, is so meager as to be virtually nonexistant."

After the Grants Act had been enacted a number of Federal agencies used grants to the extent authorized. These included: the National Aeronautics and Space Administration established in the same year of 1958 with a major boost from Sputnik; the Army Research Office and the Air Force Office of Scientific Research, although the Office of Naval Research continued exclusively on the contract route; and several other agencies with less involvement with colleges and universities. In addition to ONR, the Atomic Energy Commission did not employ grants except in very special situations but instead developed ultimately a Special Research Support Agreement which is basically a fixed price contract with the grant attributes of returning unexpended funds.

1960 Federal Funds

According to the NSF Report "National Patterns of R & D Resources,"[13] colleges and universities spent $405 million of Federal funds on research only in FY 1960. Based on the NSF Report "Federal Support to Universities, Colleges and Selected NonProfit Institutions,"[21] the total Federal obligations to colleges and universities for all purposes exceeded obligations for research by $583 million in 1963 (the first year that type of data was collected). Extrapolating backward one could estimate that total obligations to colleges and universities for FY 1960 amounted to about $650 million.

NACUBO Committee on Governmental Relations

For a number of years prior to the negotiations for and issuance of the Government Cost Principles covered by Circular No. A-21 there had been a committee involved with government relations under the auspices of the National Federation of College and University Business Officers Associations. It had provided part of the team that negotiated the original A-21 document which issued in 1958. Shortly thereafter it became clear that a stronger committee with a Washington office and full time Executive Secretary or Director would be needed to cope with the ever mounting problems of relations with the Federal Government. The activities of the committee would be covered by subscriptions from member institutions.

George W. Green of California Institute of Technology became the first chairman of the new Committee on Governmental Relations which met for the first time in 1960. It retained its status as a key component when the National Federation later became the National Association of College and University Business Officers. Originally there was cross membership with the Engineering College Research Council Committee on Relations with the Federal Government, but this terminated and in its place research administrators as well as business officers served as members to a point where now there are almost equal numbers of each serving on the committee.

The NACUBO Committee on Governmental Relations has been concerned heavily with the cost principles of Circular A-21. But it has also been concerned and negotiated effectively with the Government regarding all administrative aspects of Government grants and contracts.

Advance Payments

Under OSRD advance payments to university contractors were authorized.

Agencies which used grants were in general authorized to make advance payments of one kind or another, thus avoiding the problem of making an institution advance its own funds, and thus be in a continual cash deficit position as a result of expenditures for the work. But DOD, even including ONR, and other contracting agencies had not circumvented this problem until about 1960, under DOD with a consolidated advanced payment pool and for other agencies such as the Atomic Energy Commission with advance payment arrangements for major contracts. Eventually the Treasury Department established a procedure for a letter of credit from each agency under Treasury Circular Number 1075. Only DOD did not subscribe to this procedure but continued to follow its long established advanced payment pool arrangement. Even grants were ultimately brought under the letter of credit arrangement, which consolidates all funds needed by an institution under all grants, contracts and other agreements from one sponsoring agency.

Institutional Grants

For a considerable period of time there had been increasing support for the provision of institutional grants to colleges and universities, not tied to any specific project or program purposal. Some of the arguments advanced were that these grants could be used as follows:[23]

> "1. Research considered a long shot and proposals involving radically new concepts suffer in comparison with more pedestrian proposals. The gauntlet of complex reviewing panels, committees, and criteria that government agencies have established almost automatically makes this so. The proposals on specific research topics that some agencies request before letting contracts cannot take into consideration the idea that might lead to a breakthrough of major importance. Independent research funds controlled by the unviersities and colleges are the only answer.
>
> 2. One of the criteria that government agencies are almost forced to apply in judging the merits of a research proposal is the stature and past achievements of the individual who will lead the work.

Young men and women who have not yet had the opportunity to prove their abilities must, by and large, rely on research funds from their own university or college, or submerge their own ideas as assistants to more distinguished colleagues.

3. Many promising explorations of new concepts can be carried out with a very modest expenditure of funds. The cost and time involved in preparing and submitting a formal proposal to a prospective sponsoring agency are hardly justified; moreover, a small budget engenders the feeling that the work is of little importance--it is frequently and truly said that the $100,000 proposal is easier to sell than the $1,000 proposal.

4. When the idea for a new research project is first conceived, those individuals involved are full of enthusiasm and drive. The 6 months or more usually required for the preparation and submission of a formal proposal, which must then be reviewed and acted upon, dampen both the enthusiasm and the drive. Furthermore, preliminary research is often necessary to obtain the data and information necessary for preparing a convincing proposal. As a result, institutions must have independent research funds, even for those projects that may ultimately be of great interest to the government.

5. Finally, the people of this nation and, in response to their desires, the Congress and the executive agencies are emphasizing the direct expenditure of tax dollars for research projects that may help meet society's immediate needs. A Scientist's motivation to search for truth, wherever that truth may lie, is little understood and even less appreciated in terms of federal expenditures for the direct costs of research projects."

In 1961 the National Institutes of Health and the National Science Foundation began the award of institutional grants for some if not all of the above reasons.

The NIH awards were based on percentages of the total NIH and National Institute of Mental Health (NIMH) project research grant fundes to an institution during the previous year; amounts awarded in 1962 amounted to $20 million which climbed in 1975 to $43 million. These grants are officially known now as "Biomedical Science Support Grants." Funds granted are to be used to assist institutions in the maintenance, development, and advancement of their scientific research capabilities in health related fields. No indirect costs are allowed.

The NSF awards known as "Institutional Grants for Science" began in 1962 also, with awards totalling $1.5 million that year. These grants originally were based on percentages of the total NSF project grants for research and research training, but in 1969 the base for computing the amount of the institutional grant was expanded to include research awards from practically all agencies of the Federal Government other than the Public Health Service (thus excluding NIH and NIMH). The amounts awarded could be used for scientific research, for education in the sciences, or both. No indirect costs were allowed. The NSF Institutional Grants, while welcomed by the institutions, ran into serious administration opposition and were terminated in 1974 after having reached a peak of $15 million in 1967.

These two institutional grant programs of NIH and NSF are essentially formula grants, although the formula is based on entirely different factors than the Agricultural Hatch Act and Smith-Lever grants. Somewhat the same results as achieved by the NSF and NIH institutional grants could be obtained if the allowable indirect costs for colleges and universities included, as they do for industry, a factor for "Independent Research and Development." The reasons substantiating an allowance for I R & D are very similar to those for institutional grants.

In addition there were from 1969 to 1972 different sorts of grants issued by NSF for institutions and for individual departments which showed promise of development into first class scientific stature. These were neither formula grants nor in the strict sense project grants, but outright assistance or subsidy to help selected institutions and departments improve their scientific capabilities. The reasons for their termination seem to have been based on administration preferences for assistance via assistance to students.

Facility and Equipment Grants

At various times during the 1960s, programs to fund or to help fund buildings, other facilities and equipment were instituted, almost entirely confined to NSF, HEW and NASA. In many ways these were comparable to the PWA grants in the 1930s except that this time the grants were not limited to public institutions. Matching or major sharing of costs by the institution was required in most instances. Terms and conditions were often attached, such as agreement by the institution to use the facilities for a specific period for the purposes identified in the grant. NASA required significantly greater assurances, such as the establishment of a "technology transfer" program to make available to industry the results of research conducted.

By the 1970s, many of these facility and equipment programs had been phased out or reduced substantially.

Education and Training, etc.

Following along the line first traversed by the National Defense Education Act starting in 1958, the Higher Education Act of 1965 greatly expanded the funds to be provided and the functions to be supported for students and for student training and education at colleges and universities. There was other legislation also in this area. To consolidate these laws, bringing into focus all pertinent considerations, there was enacted the Education Amendments Act of 1972 (P.L. 92-318) whose provisions which covered the granting or payment of funds to colleges and universities included the following:

College library grants for resources, training and research students

Basic educational opportunity grants

Supplemental educational opportunity grants

Special programs for students from disadvantaged backgrounds

Insured student loans

Interest subsidies for loans

Work study programs

Direct student loans

Education professions development

Construction of academic facilities

Undergraduate

Graduate

Loans

Graduate program grants

Community college programs

In many of the above programs the college or university merely acts in many ways as an agent, passing the funds on to a student. In others the institution plays a much more active role. As is described in Section III of this paper, and is more fully discussed in Section IV, the situations where the institution acts as agent are sometimes called "payments" whereas the other types of awards are called "grants."

Grants vs. Contracts

Whether grants or contracts (or something else) are the proper and best instruments to use in sponsoring activities such as research at colleges and universities has been debated for a long time. Part of the problem is implicit in the arguments advanced for grants at the time the Grants Act was being considered as discussed earlier in this history. Other questions developed as grants came into more widespread use. There were counterarguments to the effect

that contracts were preferable.[24] There have been both before and since Comptroller General rulings to the effect that grants where the grantee must comply with certain conditions are legally contracts. In one such ruling he has stated that "acceptance of the grant creates a contract between the United States and the grantee under which the moneys paid over to the grantee...are charged with the obligation to be used for the purposes and subject to the conditions of the grant."[25]

In 1964 the House of Representatives Select Committee on Government Research conducted an investigation of Government grants which inevitably spilled over into contracts as well. In its report on the Administration of Research and Development Grants[26] the Committee found..."between the two instruments (contract and grant) based upon the subject matter of the research to be done or the type of research to be supported...the fiction of differences between grants and contracts should be obviated, and the grant eliminated, to be replaced openly and unequivocably by the contract."

Whether stimulated by the House Committee report or not, the Bureau of the Budget decided to make a reasonably comprehensive investigation. In 1966 a B O B report was issued on the subject entitled "The Administration of Government Supported Research at Universities"[27] and after known as the "Westrate" report. In essence the Westrate report said "fie on both your houses" and recommended a new kind of instrument to be called a <u>research agreement</u> for the sponsorship of research at colleges and universities, to be used instead of either grants or contracts. The NACUBO Committee on Governmental Relations and the Engineering College Research Council thereupon actually developed a sample research agreement which might be used. The substantive argument in both the Westrate report and in the preamble to the NACUBO-ECRC research agreement proposal was that there was no real difference between the kinds of

work or the way work was conducted in a grant compared with a contract.

But the powers that supported grants and those that supported contracts were too strongly entrenched. Another study was made by the Office of Management and Budget, a new name for the Bureau of the Budget, resulting in a 1969 report entitled "Report on the Project Concerning Policies, Procedures, Terms and Conditions Used for Research Projects at Educational Institutions."[28] There followed in January 1971 OMB Circular No. A-101 "Administration of Grants, Contracts or Other Agreements with Educational Institutions" which in 1973 became without substantive change General Services Administration Federal Management Circular No. FMC 73-7[29]. These circulars merely required the same treatment for both grants and contracts in the areas of:

Part I - Review and Direction of the Research Effort

Part II - Government Approval for Expenditures

Part III -Vesting Title to Equipment (to the extent permitted by statute)

Part IV - Advance Payments

In the meantime and over a period of some years there was concern in various quarters of the Federal Government over dissimilarities among the terms and conditions of Federal grants to states and local governments which in dollar volume highly outweighed grants and contracts to colleges and universities. After study and consultation there was finally issued in October 1971 OMB Circular No. A-102 entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." (This became in September 1974 General Services Administration Federal Management Circular No. 74-7[30]). Circular No. A-102 provided comprehensive coverage of all administrative aspects except

for cost principles, of grants to state and local governments. Various pressures acted strongly in the direction of a similar document for colleges and universities, but for grants only. Several years of negotiation followed on what was euphemistically called Circular A-102½, since A-102 was a starting point. Finally in 1976 there was issued Office of Management and Budget Circular No. A-110 "Grants and Agreements with Institutions of Higher Education, Hospitals and Other NonProfit Organizations."[31] "Agreements under A-110 specifically do not include contracts which are required to be entered into and administered under procurement laws and regulations." A-110 revoked Parts III and IV of A-101, but left standing Parts I and II which covered review and direction of the research effort, and approval of expenditures respectively. A-110 will be discussed in more detail in Section IV of this paper.

A final step in the grant vs. contract area results from the Report of the Commission on Government Procurement.[32] That Commission was established by Public Law 91-129 in November 1969 to study and recommend to Congress methods "to promote the economy, efficiency and effectiveness" of Federal procurement. One section of the report deals with the subject of grants and contracts for the whole gamut of Federal relations with all sorts of recipients, including states and local governments, industry, colleges and universities and others. The Report proposed that only two basic types of relationships be recognized, (1) "Federal assistance" and (2) procurement (the latter presumably limited to contracts under the procurement statutes).

The term "Federal assistance" was defined by the report as being intended to "Help a recipient carry out its functions or meet a particular need, the support or stimulation of which accords with prevailing public policy;" or

"Bring about social, administrative, or technological changes by provisions

of Federal funds or other resources to help or encourage recipients to pursue recognized objectives."[32]

The Report concluded that all Federal transactions be separated into: (1) procurement transactions for the direct benefit or use of the Government where contracts should be used; and (2) assistance transactions where: (a) grants or grants-in-aid should be used if there is little Federal involvement during performance; or (b) cooperative agreements should be used, if there is substantial Federal involvement during performance.

The Federal Grant and Cooperative Agreement Act of 1976 (commonly known as the Chiles Bill") incorporating the substance of the above recommendations was passed by Congress but vetoed by President Ford. The reasons given for the veto were in essence that flexibility would be too limited and that studies were already under way to provide more adequate classifications of the types of instruments which should be used for various types of transactions. The Bill has been reintroduced in 1977 as the "Federal Grant and Cooperative Agreement Act of 1977," S.431 and H.R. 7621.

Thus we have passed from the House Select Committee's recommendation in 1964 that grants (at least for research) be eliminated and contracts only be used, through the 1966 Westrate report recommendation of a research agreement to replace both grants and contracts, to a proposed 1977 treatment of grants to colleges and universities as Federal assistance in the same general vein as grants to states and local governments. Colleges and universities may have moved from being small fish in a bowl occupied by many large industrial fish, to being small fish in a bowl occupied by many large state and local government fish. If the Chiles Bill becomes law, it is more than likely that some agencies (DOD and NASA for example) will no longer be able to use grants.

However, the broader implications of the "assistance" concept may be far more important. Section V of this paper considers this aspect.

Laws and Executive Orders

A primary factor in making Government contracts (and to some extent grants also) larger, more complicated and more onerous than contracts (and grants) between private parties are the laws and Executive Orders which mandate the inclusion of requirements that do not have a real bearing upon the work to be performed and payment for it. There were six such provisions in Articles 1. (3), 7. and 8. of the OSRD contract. There were also six in the ONR contract, Sections 3(b), 8, 9 (questionable), 11, 16 and 17. These same types of provisions have been continued until today, although details may have changed due to changes in the laws or Executive Orders.

However, there have been many new provisions of this type added, of which the following only includes those in a normal research contract without special attributes such as construction work where several more may be needed.

Prohibition against gratituities to Government personnel

Priorities, allocations and allotments

Cost Accounting Standards

Examination of Records by Comptroller General

Price Reducation for Defective Cost or Pricing Data

Renegotiations

Walsh-Healey Public Contracts Act

Minority Business Enterprises Subcontracting

Small Business Subcontracting

Utilization of Labor Surplus Area Concerns

Convict Labor

Employment of the Handicapped

Equal Opportunity

Listing of Employment Openings

Disabled Veterans and Veterans of the Vietnam Era

Privacy Act

Buy American Act

Use of US Flag Commercial Vessels

Clean Air and Water

Few if any of these provisions are included in grants or grant manuals. If it is sound Government policy to mandate such requirements at all, it seems strange that both grants as well as contracts should not be covered. The vast majority of these provisions have nothing to do, in Irwin Stewart's words, "with assurances that Government funds would not be improperly expended." They are an attempt to achieve socially desirable goals by what might be called "legislation by contract."

1970 Federal Funds

The total Federal obligations to colleges and universities for all purposes are reported in "Federal Support to Universities, Colleges and Selected NonProfit Institutions"[32] as amounting to $3,227 million in FY 1970. Because this report, as discussed in Section III of this paper, does not include a few agencies, the total can be estimated to be actually $3,300 million.

Cost-sharing

Cost-sharing in Federal grants and contracts starting as it did with this entire history in 1887, needs its own history. Cost-sharing comes in two basic forms:[34]

1. Mandatory cost-sharing, where the sponsoring agency requires, either as a result of regulation or legislation, that an institution pay from its own resources part of the costs of performing the work under a grant or contract.

2. Voluntary cost-sharing, where the institution of its own volition absorbs part of the costs of performing the work under a grant or contract. The most frequent method of voluntary cost-sharing is to charge less than that share of faculty salaries (plus allowable indirect costs) which represents the full percentage of their effort which is devoted to the grant or contract work. Since voluntary cost-sharing is rarely affected by grant or contract terms and conditions it will receive no further discussion, and where the term "cost-sharing" is used it will mean "Mandatory cost-sharing."

Throughout a large part of the history of cost-sharing it has been closely identified with indirect costs, or "overhead," in the sense that limits are imposed on the indirect costs reimbursed which represent less than full reimbursement for those costs. Thus in the early days of the Hatch Act, and presumably also the Smith-Lever Act, items of expense that today would be called indirect costs were disallowed, so that institutions were required to share the costs to this extent. In the early NACA contracts and Cancer Institute grants the amounts were small enough, and the institutions not sophisticated enough to bother about indirect costs or cost-sharing.

With the advent of World War II and the OSRD the amounts of indirect costs became large enough to be of concern. Dr. Bush, Dr. Stewart and their colleagues

were sufficiently concerned about the welfare of colleges and universities so that they did not impose any incremental cost or cost-sharing conditions, they recognized indirect costs as real costs, and OSRD operated on a no-gain-no-loss basis. The Office of Naval Research adopted the same philosophy when it started contracting with colleges and universities in 1946.

The Public Health Service took a different tack with its beginnings in 1944. Sometime in the era which followed, PHS added on 8% of total direct costs as an allowance to cover general administration costs, but the institution was required to absorb other indirect costs. It is almost certain that the reason for the differences between PHS and ONR was that the former used grants and the latter used contracts. However, the costs of both are essentially the same.[33] Thus it is the nature of the relationship which must make the difference. The grant was thought of as an assistance or philanthropic relationship in which the recipient is almost always expected to pay part of the costs. The contract on the other hand was considered a fully mutual benefit relationship in which full costs should be paid.

When the National Science Foundation started making grants in 1950 it allowed 15% of direct costs for indirect costs, although any reasoned basis for the increase is not known. PHS increased its ceiling to 15%, which Congress made a statutory limit in 1958. In fiscal year 1963 Congress raised the limit to 20% of direct costs and extended this ceiling to research grants from all agencies.

These indirect cost ceilings were clearly inequitable. Their impact on different institutions were unequal, because of the differences in actual indirect cost rates and the variations in accounting practices followed. The impact was also increasing because of the increasing volume of grants which thus called for ever increasing dollars of cost sharing. The academic community

petitioned their Senators and Representatives for relief. The American Council on Education, the recognized "umbrella" association for colleges and universities, urged more equitable arrangements.

Whether for those or other reasons, the ceilings were finally removed and in their place the following provision was inserted in pertinent appropriation acts in 1965:

"None of the funds provided herein shall be urged to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project."

Representative Fogarty, Chairman of the Appropriations Subcommittee for Labor and HEW, explained this change as follows:

"The committee believes that the costs of research legitimately include not only those costs which are solely attributable to the research project but also those general operating and administrative costs that do not arise from any single activity but are essential to all the activities of the institution. The committee believes that the distinction between direct cost and indirect cost is necessarily somewhat arbitrary and rather meaningless. It is the committee's view that the so-called indirect costs are part of the proven and inescapable costs of all of the institution's activities, including research.

"The committee believes that Federal research-support funds should be available to any legitimate expense of eligible research projects and that arbitrary distinctions between one kind of cost and another should not enter into the calculation of the support which the Federal Government is willing to provide."[34]

Thus cost sharing was put on its own two full feet, not as a handmaiden to indirect costs. The Bureau of the Budget as a result of the above legislation issued in 1965 Circular No. A-74 "Participation in the Costs of Research Supported by Federal Grants."[35] The Circular provided guidelines and these allowed flexibility for differing circumstances. Nevertheless, institutions were required to maintain records for their cost sharing in each grant.

However, there were further stirrings in the broth of cost sharing. From these emanated a substitute cost sharing requirement applicable to the Independent Offices and Housing and Urban Development. The language contained in the 1970 Appropriation Act for those offices provided:

"None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: Provided, that the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Goverhment in the research."(empahsis added) How to measure the extent of "mutuality of interest" has never been adequately stated. Nor has the case ever been made as to why a proposer of a project should be penalized rather than rewarded for an unsolicited proposal which merits the expenditure of Federal funds.

Following this legislative action the Office of Management and Budget issued Circular No. A-100 "Cost Sharing on Federal Research" (becoming later General Services Administration Federal Management Circular 73-3 [36]) which replaced in toto Circular No. A-74. This Circular endeavored to achieve consistency, which has been difficult to say the least, in view of the fact that major agencies are governed by different statutory requirements as follows:

NSF and NASA are governed by the 1970 language

HEW has the 1965 language applying only to grants

DOD has no statutory cost sharing requirement

ERDA has no statutory cost sharing requirement

Notwithstanding the above, DOD and NASA often press for cost sharing as agency policy.

In its considerations of various aspects of Government procurement practices, the Commission on Government Procurement studied the question of cost sharing in some depth. The Commission's conclusions are reflected in the following 1972 recommendation B-8:[32]

"Eliminate cost sharing on R & D projects, except in cases where the performer of the project would clearly benefit, e.g. through economic benefits on commercial sales. Decisions with respect to the placement of R & D contracts or grants should not be influenced by potential involvement in cost sharing."

As a result of the above recommendation, an interagency task group was formed whose final report opposed minimizing or eliminating cost sharing as the Commission on Government Procurement had proposed. A subsequent task group was more supportive. Then the Office of Federal Procurement Policy in 1976 seemed to propose the elimination of cost sharing only in contracts. The President's Biomedical Research Panel operating quite separately endorsed the concept of full reimbursement of project costs. Finally the Federal Paperwork Commission (established by Congress) in December 1976 endorsed the recommendations of the Commission on Government Procurement against mandatory cost-sharing.

It remains up to Congress to take action.

Notwithstanding all of the above, there are in addition other areas in which cost sharing is of concern. For most of the preceeding discussion

has been devoted to cost sharing in Government sponsored research. In the Department of Health, Education and Welfare grants related to education and training continue the old practice of limiting payments for indirect cost to 8% of direct costs, not because of legislation but for administrative and "cost saving" reasons. Biomedical Science Support Grants reimburse no indirect costs. The National Science Foundation had had a practice of limiting indirect costs on education and training grants but has no such requirement anymore. The National Endowment for the Arts is required by the law which created it to insist in most cases that the recipient of a grant pay 50% of the cost of a project. There are various other agencies that have still different practices.

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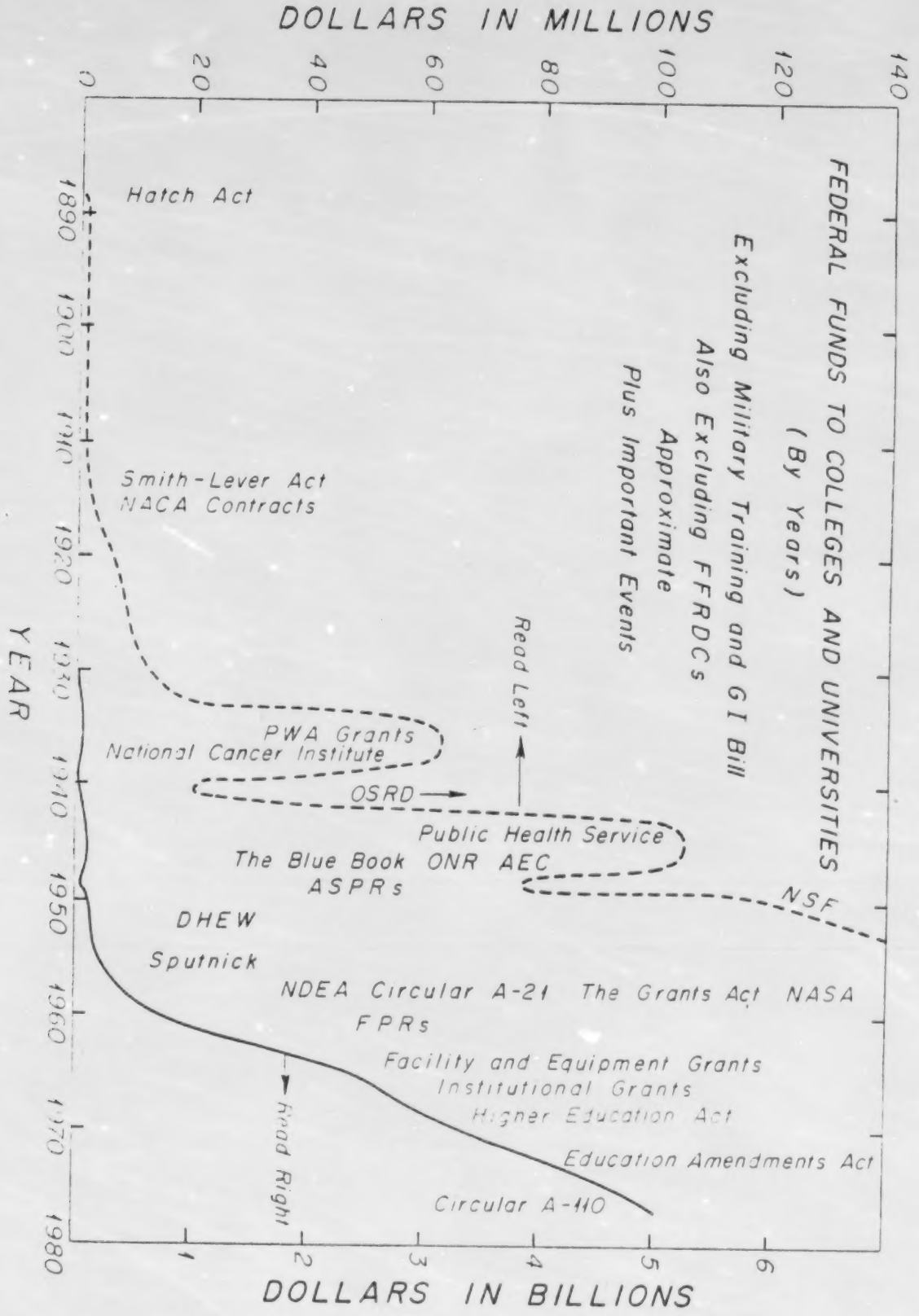
DOLLARS IN MILLIONS
0
20
40
60
80
100
120
140
FEDERAL FUNDS TO COLLEGES AND UNIVERSITIES
(By Years)
Excluding Military Training and G I Bill
Also Excluding FFRDCs
Approximate
Plus Important Events
Hatch Act
Smith-Lever Act
NACA Contracts
PWA Grants
National Cancer Institute
OSRD
Public Health Service
The Blue Book ONR AEC
ASPRs
NSF
DHEW
Sputnick
NDEA Circular A-21 The Grants Act NASA
FPRs
Facility and Equipment Grants
Institutional Grants
Higher Education Act
Education Amendments Act
Circular A-110
Read Left
Read Right
YEAR
1890
1900
1910
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1930
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1950
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1970
1980
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DOLLARS IN BILLIONS

## III FEDERAL GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES TODAY

Federal grants and contracts to colleges and universities today could be said to form a pattern of many-splendored hues. It is hard to find any parts of institutional academic programs which some Federal dollars do not infiltrate in some institution. While the types of arrangements or instruments governing the flow of those dollars can be grouped into four categories (as described later below), there are many variations within each category as a result of different treatment by each agency.

In the pages following every Federal agency that can be identified as sponsoring activities at colleges and universities is briefly described, using as a reference the U.S. Government Manual.[1] Based on the 1100 page 1976 Catalog of Federal Domestic Assistance[2] (hereafter generally called the Assistance Catalog), the applicant eligibility, the detailed program description and other catalog information, there are listed for each agency those programs which were likely to have resulted in grants or contracts to colleges and universities. Each program is listed with a brief title or description, the type of instrument used (see below), and the amount obligated in $ Millions in FY 1975 to all recipients of funds from that program, since there is no way in which the amounts obligated only to colleges and universities could be identified in most cases.

For the Department of Defense, including Army, Navy and Air Force, and the National Aeronautics and Space Administration, the Assistance Catalog does not provide the information needed so that program listings in these cases were obtained from the agencies, but without the 1975 obligations by programs. It appears that in several other cases, based on the data, other agencies have

some contracts not listed in the Assistance Catalog.

The types of instruments used for awards are defined in the Assistance Catalog as follows, although it is likely that some agencies, particularly DOD and NASA would not agree with those definitions (actually the Assistance Catalog defines sixteen types of instruments of which only four are used for colleges and universities). Since the project grant is the most frequently identified type of instrument, the instruments other than a project grant are underlined in the agency program listings.

> "Formula Grants—Allocations of money to states or their subdivisions in accordance with distribution formulas prescribed by law or administrative regulation, for activities of a continuing nature not confined to a specific project."
>
> "Project Grants—The funding, for fixed or known periods, of specific services or products without liability for damages for failure to perform. Project grants include fellowships, scholarships, research grants, training grants, traineeship, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, construction grants, and unsolicited contractual agreements."
>
> "Payments--Financial assistance from the Federal Government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal Government."
>
> "Contracts—Federal assistance designed to support research in situations where the transmission of funds would be better handled through contracts rather than through grants. The research contract is for personal or professional services, or for any service to be rendered by a university, college, hospital, public agency, or non-profit research institution. The principal purpose of such contracts is to create, develop, or improve products, processes, or methods for public use, or to operate programs benefiting the public."

Finally, for each agency, and in the cases of the Departments of Defense and

Health, Education and Welfare, for each subagency, the amounts actually obligated to colleges and universities are totalled for each of the types of instruments described above. The purpose of the awards has been subdivided into research and others; it had been hoped to have a category of education and training, but the problems of definition and obtaining actual amounts obligated were insurmountable. The sources of information included the following:

1. NSF Report on Federal Support to Universities, Colleges and Selected NonProfit Institutions Fiscal Year 1975[3] (hereafter called the NSF Report). In general this report is the basis for the total agency obligations to colleges and universities used, except that the following agencies not in the NSF Report have been added: ACTION, National Foundation on the Arts and Humanities, Department of Justice, and Veterans Administration.

2. Informal information by telephone or by letter from agencies (except National Institute of Health which has a regular report), primarily with regard to the dollar volume associated with the four kinds of instruments.

3. The Assistance Catalog

In view of the fact that there were three different sources of information used to arrive at the results achieved, there were certain to be some discrepancies. Where these discrepancies did occur, a best effort averaging judgment was made.

4 III

## ACTION

ACTION was created as an independent agency in 1971 and it includes the activities of the Peace Corps, Volunteers in Service to America, Special Volunteer Programs, University Year for Action and several others. University Year for Action is the primary component for sponsoring college and university activities.

| Program | | 1975 Program Obligations ($ Millions) |
|---|---|---|
| Expanding the use of community resources in the poverty community project grants | | $6 |
| Total Programs 1 | Total Obligations | $6 |

Based on the above and the Assistance Catalog, the 1975 obligations to colleges and universities are estimated as follows:

| | Project Grants |
|---|---|
| Other (nonresearch) | $6 |

## Department of Agriculture

The Department of Agriculture was originally created by an Act of Congress in 1862 and became the eighth executive department in 1889. The USDA Cooperative State Research Service and the Extension Service are the components involved in relations with colleges and universities, with the latter being very much limited to land-grant universities. UDSA programs involving colleges and universities are as follows:

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Scientific research project grants | $15 |
| Cooperative research formula grants | 7 |
| Hatch Act agricultural experiment station formula grants | 74 |
| Rural development research formula grants | 1 |
| Forestry cooperative research project grants | 4 |
| Forestry research project grants | 1 |
| Smith-Lever extension service formula grants | 182 |
| Total Programs 7 Total Obligations | $284 |

Based on the above data and the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows (the NSF total is taken rather than the total from the Assistance Catalog):

| | Project Grants | Formula Grants | Total |
|---|---|---|---|
| Research | $21 | $88 | $109 |
| Other | 0 | 182 | 182 |
| Total | $21 | $270 | $291 |

## Department of Commerce

The Department of Commerce was designated as such by legislation enacted in 1913. While it has a variety of components, the one most involved with colleges and universities is the National Oceanic and Atmospheric Administration which was founded in 1970. The programs of the Department involving colleges and universities are as follows:

| Programs | | 1975 Program Obligations ($ Millions) |
|---|---|---|
| Fire research and safety grants | | $ 1 |
| Sea grant support project grants | | 22 |
| Total Programs 2 | Total Obligations | $23 |

Based on the above information and data from the NSF Report, the 1975 obligation to colleges and universities can be estimated as follows (the excess from the NSF Report compared with the Assistance Catalog is taken to be contracts not in the latter):

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $22 | | $22 |
| Other | -- | $4 | 4 |
| Total | $22 | $4 | $26 |

## Department of Defense

The Department of Defense, successor to the National Military Establishment which preceeded it, was created by the National Security Act of 1947. Primarily involved was the establishment of three departments within DOD, namely Army, Navy and Air Force, whereas previously there had been only the Army and Navy. In terms of relations with colleges and universities which involved contracts (see below for grants), The Armed Service Procurement Act of 1948 provides a different legislative authorization than applies to contracts from all other Federal agencies which are covered by the Federal Property and Administrative Services Act of 1949. However, the ASPR and FPR as they are called are reasonably comparable in most respects.

None of the Department of Defense research and development programs are listed in the Catalog of Federal Domestic Assistance, even though the Air Force and the Army both award grants for the support of research under the Grants Act of 1958. The Navy, and in particular the Office of Naval Research, has consistently maintained the position, ever since it was organized in 1946, that a grant which connotes assistance is an improper instrument for a military department to use. All three services do, however, have offices which provide funds for research of particular interest to colleges and universities, although sponsorship of contracts from other parts of the Services is available and often used, generally for more applied and developmental types of activities. The programs of the three offices are as follows:

Air Force Office of Scientific Research[4]

Aerospace sciences, including fluid mechanics, aerophysics, structural mechanics, etc.

Chemical sciences relating to propulsion, energy, thermophysical properities, etc.

Electronic and solid state sciences

Life sciences of particular Air Force interest

Mathematical and information sciences

Physics of various types underlying Air Force interests

During FY 1975 the amounts obligated to colleges and universities, all for research, from the Air Force as a whole were as follows, based on data furnished informally by DOD and the Air Force:

| | |
|---|---|
| Air Force Office of Scientific Research grants | $29 Million |
| Air Force Office of Scientific Research contracts | 9 |
| Other Air Force contracts | 20 |
| Total | $58 |

Army Research Office[5]

Atmospheric and terrestrial sciences

Biology in areas of particular Army concern

Chemistry

Electronics

Mathematics

Mechanics and aeronautics

Metallurgy and materials

Physics

During FY 1975 the amounts obligated to colleges and universities, all for research, from the Army as a whole were as follows, based on data furnished informally by DOD and the Army:

| | |
|---|---|
| Army Research Office grants | $12 Million |
| Army Research Office contracts | 5 |
| Other Army contracts | 21 |
| Total | $38 |

Office of Naval Research[6]

Vehicle Warfare technology

Undersea Warfare technology

Physics

Logistics

Operations analysis

Mathematics and numerical analysis

Operations research

Statistics and probability

Information systems

Fluid dynamics

Physiology

Biochemistry

Microbiology

Organizational effectiveness research

Engineering psychology

Personnel and training research

Arctic research

Geography

Earth physics

Field projects

Atmospheric sciences

Metallurgy

Chemistry

Power programs

Structural mechanics

Oceanography

Ocean technology

During FY 1975 the amount obligated to colleges and universities, all for research, from the Navy as a whole were as follows, based on data furnished informally by DOD and the Navy:

| | |
|---|---|
| Office of Naval Research Contracts | $83 Million |
| Other Navy Contracts | 6 |
| Total | $89 |

In addition to grants and contracts to colleges and universities from the Air Force, Army and Navy reported above, there were contracts from other parts of the Department of Defense which totalled in FY 1975 $5 million.

In summary, total obligations in FY 1975 from the Department of Defense to colleges and universities were as follows ( in $ millions, all for research including some development)

| | |
|---|---|
| Grants | $41 Million |
| Contracts | 149 |
| Total | $190 |

## Energy Research and Development Administration

The Energy Research and Development Administration was established in 1974, taking over in large degree the functions of the Atomic Energy Commission established in 1946, plus energy related functions of the National Science Foundation, Environmental Protection Agency, Federal Energy Administration and others. In sponsoring research at colleges and universities ERDA is the only agency to use what is called a "Special Research Support Agreement" (SRSA) which has some of the attributes of a grant and some of a fixed price contract (The Assistance Catalog does not recognize SRSAs but seems to call them Project Grants).

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Research and development in nuclear, solar, geothermal, and advanced energy systems and physical, biomedical and environmental sciences SRSA and contracts | $ 98 |
| Research and development in fossil energy SRSA and contracts | 173 |
| Research and development in energy conservation SRSA and contracts | 5 |
| Faculty training institutions, short courses, etc. SRSA and contracts | 1 |
| Conversion, health and safety and environmental sciences and engineering traineeship SRSA and contracts | 1 |
| Total Programs 5 Total Obligations | $278 |

Based on the above information, data provided informally by ERDA and the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows:

| | SRSA | Contracts | Total |
|---|---|---|---|
| Research | $37 | $82 | $119 |
| Other | 5 | 0 | 5 |
| Totals | $42 | $82 | $124 |

## Environmental Protection Agency

The Environmental Protection Agency was not established by Congressional action but by the President who formed it as an independent agency in 1970 to coordinate and support research and antipollution activities and related subjects. The programs affecting colleges and universities are as follows:

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Environmental protection consolidated research grants | $ 7 |
| Air pollution control research project grants | 6 |
| Pesticide control research project grants | 2 |
| Solid waste disposal research project grants | 1 |
| Water pollution control research, development and demonstration project grants | 21 |
| Safe drinking water research and demonstration project grants | 1 |
| Air pollution control manpower training project grants | 1 |
| Solid waste disposal demonstration project grants | 2 |
| Water pollution control - state and local manpower development project grants | 2 |
| Water pollution control professional training project grants | 2 |
| Total Programs 10 Total Obligations | $ 45 |

Based on the above and on data informally supplied by EPA as well as the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants | Contract | Total |
|---|---|---|---|
| Research | $24 | $10 | $34 |
| Other | 5 | 0 | 5 |
| Total | $29 | $10 | $39 |

Department of Health, Education and Welfare

As its name implies, the Department of Health, Education and Welfare has a very wide ranging group of programs under which funds are provided to colleges and universities through a variety of instruments reflecting different sorts of relationships. DHEW essentially as it is today was created by legislation enacted in 1953; it incorporates an amalgam of sub-agencies, some of which had much longer histories than DHEW itself. The more important of these include: the Public Health Services tracing back in approximately its present form to the Public Health Service Act of 1944 and which in turn includes sub subagencies which are covered in the pages which follow; the Office of Education which had its origin as far back as 1867; as well as others which are identified later.

The Department of Health, Education and Welfare provides more funds to colleges and universities than all other Federal agencies combined. At the same time, as discussed above DHEW consists of a number of subagencies with widely disparate missions as well as methods of treating grants, contracts or other instruments setting forth the relationships between the Government and the recipient institutions. For these reasons it has seemed desirable and in fact practically essential to analyze each subagency within DHEW as background for the overall data presented below, with the subagency details following in subsequent pages. Since the NSF Report does not provide all of the data on subagency obligations and since some of the information provided informally by HEW was incomplete, it has been necessary to interpolate in a number of instances using the Catalog of Federal Domestic Assistance while keeping the total reasonably consistent with the NSF Report.

| Sponsoring Subagency | FY 1975 Obligations to Colleges and Universities in $ Millio | | | | | | |
|---|---|---|---|---|---|---|---|
| | Project Grants | Formula Grants | Payments | Contracts | Total | Research | Othe |
| Assistant Secretary for Education | $11 | | | | $11 | | $11 |
| Alcohol, Drug Abuse and Mental Health | 180 | | | 10 | 190 | 77 | 113 |
| Center for Disease Control | 4 | | | 2 | 6 | 4 | 2 |
| Office of Education | 220 | 25 | 840 | 32 | 1117 | 4 | 1113 |
| Food and Drug Administration | 3 | | | 5 | 8 | 8 | 0 |
| Health Resources Administration | 229 | 226 | | 24 | 479 | 21 | 458 |
| Health Services Administration | 55 | | | | 55 | 4 | 51 |
| Office of Human Development | 29 | | | | 29 | 15 | 14 |
| National Institute of Education | 1 | | | 12 | 13 | 13 | 0 |
| National Institute of Health | 1097 | | | 146 | 1243 | 1047 | 196 |
| Social and Rehabilitation Services | 7 | 20 | — | — | 27 | 2 | 25 |
| Totals | $1836 | $271 | $840 | $231 | $3178 | $1195 | $1983 |

Another form of presentation of this data shows more clearly the use of different kinds of instruments for research as compared with other sponsored activities:

| | Project Grants | Formula Grants | Payments | Contracts | Total |
|---|---|---|---|---|---|
| Research | $1022 | $ 0 | $ 0 | $172 | $1195 |
| Other | 814 | 271 | 840 | 58 | 1983 |
| Total | $1836 | $271 | $840 | $231 | $3178 |

Finally it can be noted that 131 programs were identified in the Catalog of Federal Domestic Assistance in preparing the subagency analysis which follows. $4187 million were obligated for those programs in FY 1975, of which the above analysis shows $3178 million obligated to colleges and universities.

Assistant Secretary for Education

| Program | 1975 Program Obligations ($ Millions) |
|---|---|
| Funds for the improvement of postsecondary education projects | $ 11 |

Based on the above, the amount obligated for FY 1975 to colleges and universities should have been:

| | Project Grants |
|---|---|
| Other | $ 11 |

Alcohol, Drug Abuse and Mental Health Administration

(part of Public Health Services)

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Mental Health research project grants | $ 62 |
| Alcohol research project grants and contracts | 10 |
| Drug abuse research project grants and contracts | 22 |
| Mental Health training project grants | 86 |
| Alcohol training project grants | 5 |
| Drug abuse education project grants | 3 |
| Drug abuse training project grants and contracts | 6 |
| Total Programs 7 Total Obligations | $194 |

Based on the above data and information informally provided by HEW, the 1975 obligations to colleges and universities are estimated as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $ 75 | $ 2 | $ 77 |
| Other | 105 | 8 | 113 |
| Total | $180 | $10 | $190 |

Center for Disease Control (part of Public Health Services)

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Occupational safety and health research project grants | $ 2 |
| Occupational safety and health training project grants | 2 |
| Disease control project grants (and contracts) | 34 |
| Total Programs 3 Total Obligations | $38 |

Based on the above data and information provided informally by HEW, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $ 2 | $ 2 | $ 4 |
| Other | 2 | 0 | 2 |
| Total | $ 4 | $ 2 | $ 6 |

Office of Education

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Foreign language and area studies research contracts | $ 1 |
| Handicapped research and demonstration project grants and contracts | 9 |
| Library research and demonstration project grants and contracts | 1 |
| Vocational education research project grants | 9 |
| College library resources project grants | 10 |
| Library training project grants | 2 |
| Supplemental educational opportunity payments* | 248 |
| Higher education work study payments | 300 |
| National direct student loan cancellation payments | 5 |
| National direct student loans payments | 321 |
| Veterans higher education instruction payments | 31 |
| Foreign language and area studies fellowships project grants | 3 |
| Foreign language and area studies centers and institutional studies project grants | 7 |
| Fullbright-Hays training groups abroad project grants | 1 |

* In addition there are the basic educational opportunity grants for undergraduates which are payed to colleges and universities for payment to students, totalling $1660 million. However, according to the Assistance Catalog, students and not universities are the applicants.

| | |
|---|---|
| Alcohol and drug abuse prevention project grants and contracts | $ 4 |
| Handicapped regional resources centers project grants and contracts | 9 |
| Handicapped personnel preparation project grants | 38 |
| Special services for disadvantaged students project grants | 23 |
| Upward bound project grants | 38 |
| Talent search project grants | 6 |
| Land grant college education programs formula grants | 12 |
| University community service formula grants | 13 |
| Higher education strengthening developing institutions project grants | 110 |
| Teacher corps operations and training project grants and contracts | 38 |
| Vocational education curriculum project grants and contracts | 1 |
| Higher education cooperative education project grants | 11 |
| Higher education institutional equipment project grants | 8 |
| Environmental education project grants | 2 |
| Educational opportunity centers project grants | 3 |
| Ethnic heritage studies project grants | 2 |
| Career education project grants and contracts | 10 |
| Public services professional education project grants | 2 |
| University community service special project grants | 1 |
| Mining and mineral fuel conservation fellowship project grants | 2 |
| Total Programs 34 Total Obligations | $1281 |

Based on the above and on data furnished informally by HEW, the 1975 obligations to colleges and universities can be estimated as follows (in $ millions):

| | Project Grants | Formula Grants | Contracts | Payments | Total |
|---|---|---|---|---|---|
| Research | $ 2 | $ 0 | $ 2 | $ 0 | $ 4 |
| Other | 218 | 25 | 30 | 840 | 1113 |
| Total | $220 | $25 | $ 32 | $840 | $1117 |

Food and Drug Administration (part of Public Health Services)

| Programs | | 1975 Program Obligations ($ Millions) |
|---|---|---|
| Food, drug etc research project grants | | $ 3 |
| Total Programs 1 | Total Obligations | $3 |

Based on the above data together with information provided informally by HEW, the 1975 obligations to colleges and universities can be estimated as follows (Note: the Contract expenditures are based solely on HEW data, since the Catalog of Federal Assistance listed no FDA contract program):

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $ 3 | $ 5 | $ 8 |

Health Resources Administration (part of Public Health Services)

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Health service research and development project grants and contracts | $ 37 |
| Nursing research project grants | 1 |
| Health professions capitation formula grants | 150 |
| Health professions - student loans formula grants | 36 |
| Schools of public health formula grants | 6 |
| Nursing capitation grants | 34 |
| Health manpower education institutional project grants and contracts | 32 |
| Training in dental management project grants | 5 |
| Professional nurse traineeships project grants | 13 |
| Nurse training improvement project grants and contracts | 33 |
| Health manpower education initiative project granst and contracts | 39 |
| Nursing student loans project grants | 23 |
| Allied health professions special project grants | 14 |
| Health professions financial distress project grants | 5 |
| Health professions special project grants and contracts | 38 |
| Health professions startup assistance project grants | 4 |
| Schools of nursing financial distress project grants | 1 |
| Total Programs 17 Total Obligations | $471 |

Based on the above data and information informally provided by HEW, the 1975 obligations to colleges and universities are estimated as follows:

| | Project Grants | Formula Grants | Contracts | Total |
|---|---|---|---|---|
| Research | $ 17 | $ 0 | $ 4 | $ 21 |
| Other | 212 | 226 | 20 | 458 |
| Total | $229 | $226 | $24 | $479 |

(Note: The $479 million total given above is that given by HEW and it should be noted that this figure exceeds the $471 million total for all programs from the Catalog of Federal Domestic Assistance from which awards were presumably made to colleges and universities and some others, also)

Health Services Administration (part of Public Health Service)

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Maternal and child health research project grants | $ 6 |
| Maternal and child health training project grants | 18 |
| Family planning project grants | 95 |
| Maternal and child health service limited project grants | 202 |
| Total Programs 4 Total Obligations | $321 |

Based on the above data and information informally provided by HEW, the 1975 obligations to colleges and universities are estimated as follows:

| | Project Grants |
|---|---|
| Research | $ 4 |
| Other | 51 |
| Total | $55 |

Office of Human Development

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Rehabilitation research project grants and contracts | $ 20 |
| Rehabilitation training project grants and contracts | 22 |
| Developmental disabilities demonstration facilities and training project grants | 5 |
| Special training programs for the aging project grants and contracts | 8 |
| Child abuse and neglect prevention treatment project grants and contracts | 19 |
| Special programs for the aging project grants and contracts | 7 |
| Total Programs 6 Total Obligations | $ 81 |

Based on the above and information informally provided by HEW, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants |
|---|---|
| Research | $15 |
| Other | 14 |
| Total | $29 |

National Institute of Education

| Program | 1975 Program Obligations ($ Millions) |
|---|---|
| Educational research and development project grants and contracts | $ 58 |

Based on the above and information provided informally by HEW, the 1975 obligations to colleges and universities were as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $ 1 | $12 | #13 |

National Institutes of Health (part of Public Health Service)

| Programs | 1975 Program Obligation ($ Millions) |
|---|---|
| Laboratory animal sciences and private research project grants and contracts | $ 19 |
| Clinical research project grants | 43 |
| Biomedical research support project grants | 43 |
| Biotechnology research project grants and contracts | 12 |
| Cancer cause and research project grants and contracts | 144 |
| Cancer detection and diagnosis research project grants and contracts | 31 |
| Cancer treatment research project grants and contracts | 174 |
| Cancer biology research project grants and contracts | 81 |
| Biomedical communication research contracts | 1 |
| Heart and vascular diseases research project grants and contracts | 190 |
| Lung diseases research project grants and contracts | 45 |
| Blood diseases and resources research project grants and contracts | 50 |
| Caries research project grants and contracts | 9 |
| Periodontal diseases research project grants and contracts | 9 |
| Craniofacial anomalies research project grants and contracts | 7 |
| Restorative materials research project grants and contracts | 2 |
| Pain control and behavioral studies project grants and contracts | 2 |
| Dental research institutes project grants | 7 |

| | |
|---|---|
| Arthritis, bone and skin diseases research project grants and contracts | $26 |
| Diabetes, endocrinology and metabolism research project grants | 55 |
| Digestive diseases and nutrition research project grants and contracts | 30 |
| Kidney diseases research project grants and contracts | 21 |
| Hematology research project grants and contracts | 11 |
| Communicative disorders research project grants and contracts | 17 |
| Stroke, nervous system trauma research project grants and contracts | 17 |
| Fundamental neurosciences research project grants and contracts | 15 |
| Allergic and immunologic diseases research project grants and contracts | 32 |
| Infectious diseases research project grants and contracts | 59 |
| Pharmacology-toxicology research project grants and contracts | 26 |
| Biomedical engineering research project grants and contracts | 18 |
| Clinical and physiological sciences research project grants and contracts | 19 |
| Genetics research project grants and contracts | 54 |
| Cellular and molecular basis of disease research project grants and contracts | 63 |
| Population research project grants and contracts | 45 |
| Research for mothers and children project grants and contracts | 62 |
| Aging research project grants and contracts | 10 |
| Retinal and choroidal diseases research project grants and contracts | 14 |

| | |
|---|---|
| Corneal diseases research project grants and contracts | 6 |
| Cataract research project grants and contracts | 3 |
| Glaucoma research project grants and contracts | 5 |
| Sensory motor disorders and rehabilitation research project grants and contracts | 8 |
| Environmental health science centers project grants | 5 |
| Environmental nutagenesis and reproductive toxicology research project grants and contracts | 3 |
| Etiology of environmental diseases and disorders research project grants and contracts | 6 |
| Environmental pharmacology and toxicology research project grants and contracts | 9 |
| Environmental pathogenesis research project grants and contracts | 2 |
| Chemical/biological information handling research contracts | 1 |
| Medical library assistance project grants | 2 |
| Medical library assistance-research projects | 1 |
| Minority access to research careers project grants and contracts | 2 |
| Health science and computer technology, training project grants | 1 |
| Minority biomedical support project grants | 7 |
| Cancer construction project grants and contracts | 45 |
| Cancer centers support project grants | 33 |
| Cancer research manpower project grants | 31 |
| Cancer control project grants and contracts | 50 |

Total Programs 56 Total Obligations $1676

Based on information contained in the NIH Basic Data pamphlet,[7] the 1975 obligations to colleges and universities were as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $901 | $146 | $1047 |
| Other | 196 | 0 | 196 |
| Total | $1097 | $146 | ~~$2343~~ 1243 |

Social and Rehabilitation Services

| Programs | 1975 Program Obligation ($ Millions) |
|---|---|
| Public assistance research project grants and contracts | $ 9 |
| Training in the field of child welfare project grants | 9 |
| Public Assistance training Title XX formula grants | 34 |
| To'al Programs 3 Total Obligations | $53 |

Based on the above data and information provided by HEW, the 1975 obligation to colleges and universities can be estimated as follows:

| | Project Grants | Formula Grants | Total |
|---|---|---|---|
| Research | $2 | $ 0 | $ 2 |
| Other | 5 | 20 | 25 |
| Total | $7 | $20 | $27 |

Department of Housing and Urban Development

The Department of Housing and Urban Development was established in 1965 to be concerned with housing needs and improving and developing the Nation's communities. One program within the Office of Policy Development and Research appears to be the only one involving activities sponsored at colleges and universities.

| Programs | | 1975 Program Obligations ($ Millions) |
|---|---|---|
| General research and technology project grants and contracts | | $57 |
| Total Programs 1 | Total Obligations | $57 |

Based on the above and the NSF Report, the 1975 obligations to colleges and universities should have been:

| | Project Grants |
|---|---|
| Research | $ 2 |

## Department of the Interior

The Department of the Interior was created in 1849 and its general functions can now be primarily encompassed within a role defined as custodian of the Nation's natural resources. However, insofar as sponsorship of activities at colleges and universities is concerned, this appears to be concentrated to a very large degree within the Interior's Office of Water Research and Technology established in 1964 and expanded by the Saline Water Conversion Act of 1971.

| Program | 1975 Program Obligations ($ Millions) |
|---|---|
| Water resources research project grants and contracts | $ 6 |
| Water resources research assistance to state institutes formula grants | 6 |
| Water resources research matching to state institutes project grants | 3 |
| Archaeological investigations and salvage contracts | 2 |
| Total Programs 4 Total Obligations | $17 |

Based on the above information, data informally provided by Interior and the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants | Formula Grants | Contracts | Total |
|---|---|---|---|---|
| Research | $5 | $6 | $16 | $27 |
| Other | 0 | 0 | 2 | 2 |
| Total | $5 | $6 | $18 | $29 |

## Department of Justice

The Department of Justice was established in 1870, more recently than is sometimes realized. However, the Attorney General was a member of the President's Cabinet since 1789 although not head of a department. Within the Department the Law Enforcement Assistance Administration is responsible for those projects sponsored at colleges and universities.

| Program | 1975 Program Obligations ($ Millions) |
|---|---|
| Law enforcement research and development project grants and contracts | $43 |
| Law enforcement education programs - student financial aid payments | 40 |
| Law enforcement assistance - educational development project grants | 2 |
| Law enforcement assistance training project grants | 2 |
| Total Programs 4 Total Obligations | $87 |

Based on the above data and the Assistance Catalog it is estimated that the 1975 obligations to colleges and universities were as follows:

| | Project Grants | Payments | Contracts | Total |
|---|---|---|---|---|
| Research | $7 | $ 0 | $3 | $10 |
| Other | 4 | 40 | 0 | 44 |
| Total | $11 | $40 | $3 | $54 |

## Department of Labor

The Department of Labor was established in its present form in 1913, although earlier versions go back to 1884. Within the Department the segment involved in sponsoring activities at colleges and universities is the Employment and Training Administration.

| Program | 1975 Program Obligations ($ Millions) |
|---|---|
| Employment and training research and development project grants and contracts | $13 |
| Employment and training institutional project grants | 1 |
| Total Programs 2 Total Obligations | $14 |

Based on the above data and the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $3 | $1 | $4 |
| Other | 2 | 0 | 2 |
| Total | $5 | $ 1 | $6 |

National Aeronautics and Space Administration

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958, following the Russian Sputnik of a year earlier. None of the NASA funding programs are listed in the Catalog of Federal Domestic Assistance, even though NASA awards the grants for the support of research under the Grants Act of 1985. A significant part of the research is of interest to colleges and universities as will be evident from the following listing of the NASA research and technology program.[8]

Aeronautics and space technology, including aeronautics research and technology base, aeronautics systems studies, aeronautics systems technology programs, aeronautics experimental programs, space research and technology base, space system studies, space systems technology programs, and space experimental programs.

Applications, including earth and ocean physics, weather and climate, pollution monitoring, earth resources, space processing, advanced communications research, and data management.

Space sciences, including solar, terrestrial, launch vehicle development; planetary exploration science, planetary exploration advanced technical development, physics and astronomy, planetary biology, planetary quarantine, lunar science, planetary astronomy, upper atmosphere research, and life sciences.

Tracking and data acquisition

Energy programs

Space flight

Based on the information obtained informally from NASA and the NSF Report,

the National Aeronautics and Space Administration obligated in 1975 to colleges and universities (in $ millions) all for research (and including some development):

| | |
|---|---|
| Grants | $59 |
| Contracts | 50 |
| Total | $109 |

National Foundation on the Arts and Humanities

The National Foundation on the Arts and the Humanities was created as an independent agency in 1965. The Foundation consists of the two Endowments discussed below and a Federal Council on the Arts and the Humanities.

National Endowment for the Arts

"The activities of the National Endowment for the Arts are designed to foster the growth and development of the arts in the United States, to preserve and enrich the Nation's cultural resources, and to provide opportunities for wider experience in all the arts."[1] An unusual aspect of the legislation creating the Endowment is a requirement that recipients of grants must pay at least fifty percent (50%) of the costs of the activities covered by a grant, except that the 50% matching may be waived for grants totalling twenty percent (20%) of the total annual appropriation for the Endowment if efforts to obtain full matching are unsuccessful.

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Promotion of the arts for - | |
| architectural and environmental project grants | $ 3 |
| education project grants | 5 |
| literature project grants | 2 |
| visual arts project grants | 3 |
| museums project grants | 11 |
| Total Programs 5 Total Obligations | $24 |

Based on the above data and information provided by the National Endowment

for the Arts, the 1975 obligations to colleges and universities were:

| | Project Grants |
|---|---|
| Other | $5 |

National Endowment for the Humanities

"The activities of the National Endowment for the Humanities are designed to promote and support the production and dissemination of knowledge in the humanities, especially as it relates to the serious study and discussions of contemporary values and public issues."[1] This Endowment is not constrained by law to obtain 50% matching funds for grants, although a restriction does occur for workshops where admission is charged to the general public in which case the Endowment can pay only thirty percent (30%) of the total workshop costs.

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Promotion of the humanities - | |
| general research project grants | $ 3 |
| centers of research project grants | 2 |
| research materials project grants | 4 |
| media project grants | 1 |
| fellowships and stipends for the professor project grants | 1 |
| education pilot programs and development project grants | 5 |
| education project grants | 7 |
| public program development project grants | 2 |
| summer seminars for college teachers project grants | 2 |

| | |
|---|---|
| cultural institution project grants | $ 1 |
| national humanities institutes project grants | 3 |
| interpretive museum exhibitions and interpretive programs project grants | 4 |

Total Programs 12 Total Obligations $38

Based on the above data and information informally obtained from National Endowment for the Humanities, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants |
|---|---|
| Research | $ 8 |
| Other | 25 |
| Total | $33 |

The combined amounts for both Endowments were:

| | Project Grants |
|---|---|
| Research | $ 8 |
| Other | 30 |
| Total | $38 |

## National Science Foundation

The National Science Foundation was established by the National Science Foundation Act of 1950, as amended, and was given additional authority by the National Defense Education Act of 1958. NSF's purposes in sponsoring activities at colleges and universities are to: "increase the Nation's base of scientific knowledge and strengthen its ability to conduct scientific research; encourage research in areas that can lead to improvements in economic growth, energy supply and use, productivity, and environmental quality; promote international cooperation through science; and develop and help implement science education programs that can better prepare the Nation for meeting the challenges of the decades ahead."[1]

NSF programs for sponsoring activities at colleges and universities as described in the Catalog of Federal Domestic Assistance are as follows:

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Research applied to national needs project grants and contracts | $ 82 |
| Mathematical and physical sciences and engineering project grants | 181 |
| Astronomical, atmospheric, earth and ocean sciences project grants and contracts | 81 |
| Biological, behavioral and social science project grants | 104 |
| Science manpower improvement project grants | 21 |
| International cooperative scientific activities project grants | 8 |
| Science information activities project grants and contracts | 5 |
| Intergovernmental program project grants | 2 |

| | |
|---|---|
| Science and society project grants | $ 2 |
| Science education improvement project grants | 51 |
| Total Programs 11 Total Obligations | $545 |

Based on the above data and information informally provided by NSF, the 1975 obligations to colleges and universities are estimated as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $375 | $23 | $398 |
| Other | 87 | 6 | 93 |
| Total | $462 | $29 | $491 |

## Department of State

Established in 1789, the Department of State is among the first of the departments created in the Nation's government. Only relatively recently, however, has there been created in 1961 within the Department the Agency for International Development which is essentially the sole source for sponsoring activities at colleges and universities.

| Programs | | 1975 Program Obligations ($ Millions) |
|---|---|---|
| Technology applications for less-developed countries project grants and contracts | | $11 |
| Strengthening institutional centers to aid foreign development project grants | | 4 |
| Total Programs 2 | Total Obligations | $15 |

Based on the above information, on interpretation of additional information in the Assistance Catalog, on the NSF Report and on data supplied by AID, it is estimated that the 1975 obligations to colleges and universities were as follows:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $6 | $2 | $8 |
| Other | 4 | 0 | 4 |
| Total | $10 | $2 | $12 |

## Department of Transportation

The Department of Transportation was established by law in 1966, and it consists of elements transferred from eight other major departments and agencies. With regard to the sponsorship of activities at colleges and universities the presently active components are the Federal Railroad Administration and the Urban Mass Transportation Administration.

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Railroad research and development contracts | $40 |
| Mass transportation technology project grants and contracts | 1 |
| Urban Mass transportation technical studies project grants | 37 |
| Urban Mass transportation university research and training project grants | 2 |
| Total Programs 4 Total Obligations | $80 |

Based on the above information, data furnished by DOT and the NSF Report, the 1975 obligations to colleges and universities can be estimated as follows:

| | Project Grants | Contract | Total |
|---|---|---|---|
| Research | $ 0 | $21 | $21 |
| Other | 2 | 0 | 2 |
| Total | $ 2 | $21 | $23 |

## Veterans Administration

The Veterans Administration was established by Executive Order in 1930 to consolidate and coordinate in part veterans agencies established in earlier years. The Department of Medicine and Surgery is primarily involved in sponsoring activities at colleges and universities.

| Programs | 1975 Program Obligations ($ Millions) |
|---|---|
| Prosthetics research contracts | $ 4 |
| Exchange of medical information project grants | 3 |
| Assistance in the establishment of new state medical schools project grants | 3 |
| Assistance to health manpower training institutions project grants | 22 |
| Total Programs 4 Total Obligations | $32 |

Based on the above information and the Assistance Catalog, it is estimated that the 1975 obligations to colleges and universities were:

| | Project Grants | Contracts | Total |
|---|---|---|---|
| Research | $ 0 | $ 1 | $ 1 |
| Other | 27 | 0 | 27 |
| Total | $27 | $ 1 | $28 |

## Summary of 1975 Federal Obligations to Colleges and Universities

(Note: the first number under a column represents the total obligations of an agency [in $ millions], the second number in parenthesis represents the obligations for research [in $millions])

| Agency | Project Grants | Formula Grants | Payments | Contracts | Total |
|---|---|---|---|---|---|
| ACTION | $ 6(0) | $ | $ | $ | $ 6(0) |
| Department of Agriculture | 21(21) | 270(88) | | | 291(109) |
| Department of Commerce | 22(22) | | | 4(0) | 26(22) |
| Department of Defense | 41(41) | | | 149(149) | 190(190) |
| Air Force | 29(29) | | | 29(29) | 58(58) |
| Army | 12(12) | | | 26(26) | 38(38) |
| Navy | | | | 89(89) | 89(89) |
| Other DOD | | | | 5(5) | 5(5) |
| Energy Research and Development Administration | | | | 124(119)* | 124(119) |
| Environmental Protection Agency | 29(24) | | | 10(10) | 39(34) |



*The Special Research Support Agreements of the Energy Research and Development Administration a

as contracts.

| Agency | Project Grants | Formula Grants | Payments | Contracts | Total |
|---|---|---|---|---|---|
| Department of Health, Education and Welfare | 1836(1022) | 271(0) | 840(0) | 231(173) | 3178(1195) |
| Assistant Secretary for Education | 11(0) | | | | 11(0) |
| Alcohol, Drug Abuse and Mental Health Administration | 180(75) | | | 10(2) | 190(77) |
| Center for Disease Control | 4(2) | | | 2(2) | 6(4) |
| Office of Education | 220(2) | 25(0) | 840(0) | 32(2) | 1117(4) |
| Food and Drug Administration | 3(3) | | | 5(5) | 8(8) |
| Health Resources Administration | 229(17) | 226(0) | | 24(4) | 479(21) |
| Health Services Administration | 55(4) | | | | 55(4) |
| Office of Human Development | 29(15) | | | | 29(15) |
| National Institute of Education | 1(1) | | | 12(12) | 13(13) |
| National Institutes of Health | 1097(901) | | | 146(146) | 1243(1047) |
| Social and Rehabilitation Service | 7(2) | 20(0) | | | 27(2) |
| Department of Housing and Urban Development | 2(2) | | | | 2(2) |
| Department of the Interior | 5(5) | 6(6) | | 18(16) | 29(27) |

| Agency | Project Grants | Formula Grants | Payments | Contracts | Total |
|---|---|---|---|---|---|
| Department of Justice | 11(7) | | 40(0) | 3(3) | 54(10) |
| Department of Labor | 5(3) | | | 1(1) | 6(4) |
| National Aeronautics and Space Administration | 59(59) | | | 50(50) | 109(109) |
| National Foundation on the Arts and Humanities | 38(8) | | | | 38(8) |
| National Science Foundation | 462(375) | | | 29(23) | 491(398) |
| Department of State (AID) | 10(6) | | | 2(2) | 12(8) |
| Department of Transportation | 27(0) | | | 1(1) | 28(1) |
| Totals | 2576(1595) | 547(94) | 880(0) | 643(568) | 4646(2257) |

As far as is known, no analysis like that above of the kinds of instruments used by the Federal Government to sponsor activities at colleges and universities has ever been made before. This is so in spite of the Congressional activity and debates over a number of years with regard to the use of grants vs. contracts, the Bureau of the Budget "Westrate Report",[9] the Report of the Commission on Government Procurement,[10] the Chiles Bill[11] in the present Congress and other related studies (see Section II). When the nature of some of the instruments actually used are explored as is done in the next Section IV, the contract versus grant distinction, or procurement versus assistance as it is often called, becomes even more difficult to recognize clearly.

## Federally Funded Research and Development Centers

None of the data or information previously presented in this Section includes the Federally Funded Research and Development Centers administered by individual universities or by consortia of universities. These FFRDCs as they are known are major organizational units performing research and development primarily under contract with a particular Federal agency. Since they are major organizational units, the type of research and development performed may in some cases range over much of the spectrum of the sponsoring agency's mission, while in others they are devoted to a more narrow objective or line of endeavor. The sponsoring agency for each center provides the lion's share of the funds in every instance, although other Federal agencies frequently provide some sponsorship and there is occasionally private funding as well. There are essentially two types of FFRDCs:

1. Those which are operated under contract with a single university and are primarily devoted to the performance of research and development work using their own staff and employees. The largest of these centers are descendants of World War II research laboratories, the ones sponsored by DOD and NASA tracing back to OSRD origins and those by ERDA tracing back through the Atomic Energy Commission to the Manhattan District of the Army Corps of Engineers. These centers together with their FY 1975 obligations are:

| Sponsor and Center | 1975 Obligations ($ Millions) |
|---|---|
| Energy Research and Development Administration | |
| U. of California Lawrence Berkeley Lab | $ 42 |
| U. of California Lawrence Livermore Lab | 173 |
| U. of California Los Alamos Scientific Lab | 179 |

| Sponsor and Center | 1975 Obligations ($ Millions) |
|---|---|
| ERDA | |
| U. of Chicago Argonne National Lab* | $136 |
| Iowa State U. Ames Lab | 8 |
| Princeton U. Plasma Physics Lab | 23 |
| Stanford U. Linear Acceleration Center | 31 |
| Department of Defense | |
| Johns Hopkins U. Applied Physics Lab | 90 |
| MIT Lincoln Lab | 86 |
| Pennsylvania State U. Applied Research Lab | 9 |
| U. of Rochester Center for Naval Analyses | 11 |
| National Aeronautics and Space Administration | |
| Cal. Institute of Technology Jet Propulsion Lab | 227 |
| National Science Foundation | |
| Cornell U. Astronomical and Ionospheric Center (Puerto Rico) | 3 |
| Total | $1018 |

2. The second type of FFRDC is one which is operated and managed by a corporation organized by a consortium of universities. The number of universities in the consortium range from about eight to over thirty (in the case of the Universities Research Association, Inc.). In very large part these corporations

*Argonne is a mutant, being administered both by the U. of Chicago and more recently by Argonne Universities Association also.

**The Cornell Lab may be more like the consortia contracts.

have been organized to negotiate and accept contracts from Federal agencies to provide facilities, equipment and supporting services for research that is primarily basic in nature and which would be too costly to provide at a single institution and might result in too much concentration of expertise at that institution. Thus the facilities, equipment and supporting services are made available to the staffs of all consortia members, and in practically all cases to qualified researchers from any organization. There are, of course, a number of experiments and research projects performed by permanent staff of a center, since experience has shown that a competant supporting staff cannot be retained without this opportunity. The centers involved are:

| Sponsor and Center | 1975 Obligations ($ Millions) |
|---|---|
| Energy Research and Development Administration | |
| Associated Universities, Inc. Brookhaven National Lab | $ 72 |
| Oak Ridge Associated Universities, Inc. | 6 |
| Universities Research Association, Inc. National Accelerator Lab | 57 |
| National Science Foundation | |
| Associated Universities, Inc. National Radio Astronomy Observatory | 19 |
| Assoc. of Univ. for Research in Astronomy Kitt Peak Nat'l. Observatory | 9 |
| Assoc. of Univ. for Research in Astronomy Cerro Tolelo InterAmerican Observatory (Chile) | 3 |
| Univ. Corp for Atmospheric Res. Nat'l. Ctr. for Atmospheric Research | 22 |
| Total | $188 |
| Grand Total | $1206 |

(Note: the FY 1975 obligations by centers, administering organizations and Federal agency are from the NSF Report Table B-33)

## Section III References


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2 "1976 Catalog of Federal Domestic Assistance"
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3 "A Report to the President and Congress: Federal Support to Universities, Colleges and Selected Nonprofit Institutions, Fiscal Year 1975 - Detailed Statistical Tables Appendix B"
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4 "Proposer's Guide to the AFOSR Research Program" 1973
Air Force Office of Scientific Research
1400 Wilson Blvd.
Arlington, VA 22209

5 "Program Guide" Oct. 1976
U.S. Army Research Office
P.O. Box 23322
Research Triangle Park, NC 27709

6 "Opportunities for Naval Research" July 1971
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7 "Basic Data Relating to the National Institutes of Health 1976" Feb. 1976
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8 "Research and Technology, Objectives and Plans Summary - Fiscal Year 1977
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National Technical Information Service
Springfield, VA

9 "The Administration of Government Supported Research at Universities" March 1966
Bureau of the Budget
Executive Office of the President

10 "Report of the Commission on Govern ent Procurement" Dec. 1972
(in 10 parts)
Commission on Government Procurement
Government Printing Office
Washington, DC

11 "Federal Grant and Cooperative Agreement Act of 2977" (Bill for Enactment of)
S. 431 95th Congress 1st. Session
U.S. Senate Committee on Government Operations

IV

## REQUIREMENTS AND PROVISIONS OF CONTRACTS, GRANTS AND OTHER INSTRUMENTS

Although project grants account for the largest amount of Federal funds paid to colleges and universities, contracts have a longer established and defined position within Federal law and regulations. For this reason the requirements and provisions of Federal contracts will be the first subject to be treated in this Section.

### CONTRACTS

Practically all Federal contracts which are recognized and designated as such are covered either by the Armed Services Procurement Regulations (ASPR)[1] or the Federal Procurement Regulations (FPR)[2], which apply respectively to the Department of Defense and to the various civilian agencies. Some of the civilian agencies issue their own procurement regulations, but these primarily implement and supplement the basic FPRs. Furthermore the FPRs are generally copied from the ASPRs to keep proliferation of different Government regulations to a minimum. Generally in this part, except as otherwise noted, the ASPRs will be the guide.

In Section III contracts as defined in the OMB Catalog of Federal Domestic Assistance are described. That definition is really meant to cover only contracts for research which is expected to be of 'assistance' to the public.

As far as ASPR are concerned, "Contracts mean all types of agreements and orders for the procurement of supplies or services" (ASPR 1-201.4) and "Procurement includes purchasing, renting, leasing, or otherwise obtaining supplies or services." (ASPR 1-201.13). FPR states that "contract means establishment of a binding legal relation basically obligating the seller to furnish personal property or for personal services (including construction)

and the buyer to pay therefore." However, Black's Law Dictionary[3] gives as a broader definition of a contract "It is agreement creating obligation, in which there must be competent parties, subject matter, legal consideration, mutuality of agreement, and mutuality of obligation, and agreement must not be so vague or uncertain that terms are not ascertainable." Thus it can probably be said that in a contract for research there is an underlying concept of mutual benefit (or legal consideration). The benefit to a contractor, in the case of a profit-making organization, is to make a profit and to perform some research that it wants to perform. The benefit to a college or university is limited to performing some research that it wants to perform, although there is the likelihood also of some educational byproduct. As the other party to the contract, the Government expects that it or a Government mission or the people it represents will benefit from the research performed in an amount or degree commensurate with the costs.

Types of Contracts

There are basically two types of contracts, those which can be called fixed price contracts and those which can be called cost-type contracts.

Fixed price contracts are generally limited to projects where the costs can be forecast with a reasonable degree of accuracy. Payment is made in a fixed amount irrespective of costs when the specified results have been delivered. Thus cost overruns on some projects can be expected to be counterbalanced by contract payments in excess of costs for other projects. However, experimental research can rarely be projected in terms of cost with enough accuracy to justify using a fixed price contract, so that such contracts are

infrequently used today. Nevertheless if project costs are primarily manpower related, such as theoretical research, a fixed price contract can be priced out with a reasonable degree of accuracy and the delivery of a result be measured in months of manpower effort (this is sometimes called a "level of effort" contract).

The primary advantages to a fixed price contract as described above are greater simplicity, no necessity for prior approval during performance, no compliance with Government cost principles for vouchering, no Government audit of costs, etc.

A variation of the fixed price contract is the Energy Research and Development Administration "Special Research Support Agreement" or SRSA. Under an SRSA, the Contractor cannot retain (as he can in a normal fixed price contract) any payments in excess of costs, but he is also not obligated to continue research beyond the point where his costs equal or exceed the contract price (such a stoppage of work is not permitted under a normal fixed price contract). Most of the advantages of a fixed price contract cited above disappear.

Cost-type contracts provide for the reimbursement of contractor costs measured by standard Government Cost Principles such as OMB Circular No. A-21 until those costs reach a contract ceiling. The ceiling is based on the estimated cost submitted with a project proposal, with such revisions as may be made during contract negotiation. The contractor has no obligation to continue work when the ceiling is reached, unless and until the Government increases the ceiling. Prior approval of various types of expenditures are required during performance. Government audit of expenditures in accordance with Government cost principles, etc. are required.

A variation of a cost-type contract is a cost-plus-a-fee contract. The only known instance where this type of contract is used with colleges or universities is for a few (far from all) Federally Funded Research and Development Centers. The justification of the fee in such cases may be to pay for costs of various kinds which are unallowable under the Government Cost Principles covered by OMB Circular No. A-21 (or other Cost Principles that may sometimes apply). University consortia operating FFRDCs are more apt to have cost-plus-a-fee contracts than universities operating by themselves. The fee is generally stated as a fixed dollar amount payable over a period such as a year.

The contract clauses (or terms and conditions) discussed hereafter are those which appear in cost-type contracts, unless specifically stated otherwise, since cost-type contracts cover ninety percent or more of the contract work performed for the Government by colleges and universities. The discussion of each clause is limited to essential features, with many details and implementation aspects frequently omitted. The clauses as contained in ASPR and FPR are separated into three categories:

1. Required clauses in all research and development cost type contracts. Except as noted these will be the only clauses discussed.

2. Clauses to be used when applicable, such as clauses for contracts involving construction work, etc.

3. Additional clauses to be inserted in accordance with Departmental (i.e. Army, Navy, or Air Force) procedures when it is desired to cover the subject matter in contracts.

There is an additional type of subdivision made in the following portions

of this paper as follows:

A. Clauses covering subject matter of the type but not necessarily in the same detail as might be found in a contract to a college or university from a private sponsor. In general these are clauses that cover the scope of work, reports, payments, patents and copyrights, publications, terminations, insurance and liability, prior approvals, and disputes.

B. Clauses of a type that would probably never be found in a contract from a private sponsor to a college or university, unless it is a subcontract under a Government prime contract. As discussed in Section II of this paper, the vast majority of these clauses have been introduced since the World War II days of OSRD and the immediately postwar days of ONR.

Type A-Clauses of a Kind Which Might Be Found in a NonGovernment Contract

Scope of work and reporting requirements are not spelled out in ASPR or FPR, but are inserted as appropriate. However, there is an "Additional," not "Required," clause which procurement agencies may insert entitled "Changes" (ASPR 7-404.1). Under the Changes clause the Contracting Officer may by written notice make changes, within the scope of the work, in the specifications (among other things) and the specifications are often a description of the work to be performed as set forth in a proposal. This clause harks back to the OSRD and original ONR provisions that the work should be performed "in accordance with any instructions of the Scientific Officer." It is also the basis for the contention that contracts are more subject to Government control than grants, one of the key points made in support of the Grants Act.

However, it has been possible to have the Changes clause deleted if procuring agencies ask for it. If the Government requires a change under the

Changes clause, a profit making organization may obtain an increase both in estimated cost and fee, whereas a college or university may only obtain an increase in estimated costs. It is inequitable and unreasonable that a college or university, in the absence of mutual agreement, should be required to do something it doe not want to do just because its costs are paid. An analogy would be that an individual should be required to eat meat, although he doesn't want to eat meat, just because the costs of meat are paid. Contracts with colleges and universities must as far as possible operate on the basis of mutual agreement.

Evidence that this principle of mutual agreement, without unilateral Government control, can be sustained even in a very large contract is contained in the Statement of Work for the $40 million per year FFRDC Princeton Plasma Physics Six Year contract. The contract provides that "The work program, as mutually agreed to in writing by the parties, shall constitute the work to be performed under this contract during the pertinent period involved."[4]

Limitation of cost clause (ASPR 7-402.2) states in essence that the Government shall not be obligated to reimburse the contractor for costs incurred above the stated estimated cost of the contract unless and until the stated estimated cost is increased. The Contractor must notify the Government when approaching the stated estimated cost or when total costs are expected to be greater or substantially less. However the Contractor can stop work when estimated cost is reached.

Allowable Cost and Payment clauses (ASPR 7-402.3) provides for payment to the Contractor of the "allowable cost" determined by the Contracting Officer to be allowable in accordance with ASPR 15-3 (the same as OMB Circular No. A-21

and FMC 73-8) and the terms of the contract. OMB Circular No. A-21 has been discussed to some degree in Section II. Basically it covers three kinds of costs and how those costs must be substantiated and computed:[5]

1. "Direct costs are those which can be identified and charged to a specific project relatively easily with a reasonable degree of accuracy and without an inordinate amount of accounting."

2. "Indirect costs, in contrast with direct costs, are those that have been incurred for purposes common to a number or all of the specific projects, programs, or activities of an institution, but which cannot be identified and charged directly to such projects, programs, or activities relatively easily with a reasonable degree of accuracy and without an inordinate amount of accounting."

3. Unallowable costs are those which the Government will not accept as either direct costs or indirect costs of Government sponsored projects. Major unallowables include independent reserach and development (allowed to industry), interest or imputed interest (OSRD allowed this), fund raising and investment management, and (allowed by OSRD and the Blue Book) public information and public relations, must patenting costs, catalogs, commencements, etc.

Payment is made to the Contractor on the basis of a voucher supported by a statement of cost which must be approved by the Contracting Officer. The Contracting Officer may, and almost always does, have the vouchers and statements of costs audited (see ASPR 7-402.30). Contractor after completion must sign a release of claims against the Government and an assignment of any credits such as discounts, rebates, etc.

If advance payments are desired, they must be arranged in the case of the Department of Defense by the execution of a special contract clause and by the

establishment of a Special Bank Account which contains a vareity of special requirements (See ASPR 7-104.34 and Appendix 6 Part 4). Funds are deposited in the Special Bask Account and are drawn upon by the Contractor based on costs. In the case of other agencies the Treasury letter of credit system may be used, and the agencies involved in such cases issue letters of credit as provided for by Treasury Circular, No. 1075.

Cost-sharing, when called for as discussed in Section II of this paper, is provided for under this clause. However, cost-sharing is only required by law for contracts from the Independent Agencies and HUD which result from an unsolicited proposal (DOD and ERDA legislation do not require cost-sharing).

Standards of Work (ASPR 7-402.4) requires that the performance of work and services shall conform to high professional standards.

Inspection clause (ASPR 7-402.5(b)) provides the Government with the right to inspect the research in progress.

Subcontracts clause (ASPR 7-402.8) requires prior approval by the Contracting Officer for a variety of actions:

1. Subcontracts or purchase orders on other than a fixed price basis
2. Any subcontract or purchase order exceeding $25,000 or 5% of the estimated contract cost.
3. Fabrication, purchase, rental or installation of any equipment.
4. Subcontracts for research or development. Generally, the contract schedule will identify and approve the items contained in a proposal, so that the actual number of approvals required can be limited to those for which a need arises after proposal.

This contract clause continues with the details to be submitted for major subcontracts and requires notice of suits or actions filed by subcontractors or vendors.

Finally, as required by law, it prohibits subcontracts on a cost-plus-a-percentage-of-cost basis.

Termination clauses (ASPR 7-302.10 (b)) provides that the Government may terminate contract work, in whole or in part, if it determines that such termination is in the Government's best interests. Upon receipt of a termination notice the Contractor must cancel all relevant purchase orders and subcontracts and exercise all resonable diligences to cancel or divert personnel commitments. Also he must settle all cancellation claims as approved by the Contracting Officer, or assign such claims to the Government.

Upon submission of Contractor's proposed termination settlement to the Government which is to be in accord with ASPR 15-3 (OMB Circular No. A-21), the Contractor and the Contracting Officer negotiate to reach agreement. In the absence of an agreement, the settlement may be submitted as a dispute under the Dispute clause.

Contractor must furnish to the Government the types of property to have been furnished had the contract been completed, plus property purchased, fabricated or otherwise acquired.

Patent Rights clauses come in a melange of forms and substances. Very often they are the longest and most complex of the provisions in a particular contract. The patent rights clauses of some agencies, such as the Energy Research and Development Administration and the National Aeronautics and Space Administration, are to a larger extent prescribed by law. Others are presumably governed by the President's 1963 and 1971 Statements of Government Patent Policy, although

individual agency interpretation are far from consistent.

There are three fundamental types of patents rights clauses, each with some variations:

1. Government title clause, in which the government takes title to all patent rights but the Contractor has a nonexclusive royalty free license.

2. A Government license clause in which the Contractor may retain title to patent rights under carefully spelled out conditions, and the Government receives a royalty-free nonexclusive and irrevocable license to practice and have practiced each invention for Government purposes.

3. A deferred clause, in which the Contractor can apply to retain patent rights after the contract work is underway and an invention is made, for which the Contractor may retain title if this can be justified under the pertinent rules and regulations. The Government then gets the same license as under 2.

The Department of Defense can be said to follow the President's Statement of Government Patent Policy which normally requires a Government title clause where:

"1. a principal purpose of the contract is to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

2. a principal purpose of the contract is for exploration into fields which directly concern the public health, public safety or public welfare; or

3. the contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the

acquisition of exclusive rights at the time of contracting might confer on the Contractor or preferred or dominant position ; or

4. the services of the Contractor are:

a. for the operation of a Government-owned research or production facility; or

b. for coordinating and directing the work of others" (ASPR 9-107.3)

Under exceptional circumstances a Contractor may acquire more than a nonexclusive license for its use.

The Government license clause may be used: "where the purpose of the contract is to build upon existing knowledge or technology, to develop information, products, processes, or methods for use by the Government, and the work called for by the contract is in a field of technology in which the Contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the Contractor has an established nongovernmental commercial position, the Contractor shall normally acquire the principal or exclusive rights throughout the world in and to any resulting inventions, subject to the Government's acquiring at least an irrevocable nonexclusive royalty-free license throughout the world for Governmental purposes." (ASPR 9-107.3).

The deferred clause is to be used when the Contracting Officer determines that the Contractor's commercial interests are not sufficiently established to justify a Government license clause covered immediately above.

There are further conditions, such as "March-in" rights, etc.

As should be evident, it is difficult for most universities to justify a Governmental license clause from DOD. It has been done, and what is necessary is a university patent policy which demonstrates an interest and capability in

technology transfer of the results of Government research to industrial utilization, plus a demonstration of technology transfer actually made.

The Energy Research and Development Administration operates under two laws which affect in a major way the handling of inventions and patents, the Atomic Energy Act of 1954 and the Federal Nonnuclear Energy Research and Development Act of 1974. Basically the result is a contract clause which will in general take title for the Government to all patent rights on inventions resulting from contract work, except that waivers of title may be requested and, if justified, obtained for particular inventions. Advance waivers, where the contract provides for the Contractor to retain title with a license to the Government, may be obtained where there is cost-sharing by the Contractor, or where there is continuing ongoing private effort by the Contractor (examples of the latter have not been found).[6] Provisions which are presumably more liberal have been issued in July 1977 but have not been tested.

The Department of Health, Education and Welfare uses an Institutional Patent Agreement (IPA) (to be later described) but only for grants and "awards," not for contracts. For contracts it follows Federal Procurement Regulations Part 1-9 Patents, Data and Copyrights where the treatment is reasonably similar to that for DOD.

National Aeronautics and Space Administration is bound by the patent-provisions of the National Aeronautics and Space Act of 1958. NASA contracts require that title to all patent rights shall be in the Government, except as these are waived on an invention by invention basis to the Contractor. NASA has been reasonably liberal in granting waivers.

National Science Foundation like HEW use an Institutional Patent Agreement (IPA) but its use extends to contracts as well as to grants and other

agreements. An IPA is a contractual arrangement between an agency and a college or university covering the treatment of all inventions made under all grants, etc. from an agency to an institution. Briefly an IPA contains the following types of conditions:

1. Prompt reporting to the agency of all inventions.

2. Institution may retain title to all inventions.

3. Institution conveys title to any invention to the Government if it does not patent.

4. Institution grants to Government nonexclusive, nontransferable, paid up license to practice or cause to be practiced any invention where Institution retains title under 2. above.

5. Institution agrees to license others at Government request for inventions under 2. above if steps towards practical application have not been taken within three years, or if invention is required for public use by governmental regulations or to fulfill public health or safety needs (often called "March in" rights).

6. Certain time limits for patent application are specified

7. Subcontract patent requirements are set forth

8. Institution is required to license its inventions on a nonexclusive, royalty-free or reasonable royalty basis to all qualified applicants, except that exclusive license may be issued for specified and limited periods of time.

9. Institution may assign its invention to certain specified and approved patent management organizations.

10. Annual reports under the IPA are required

IPA's must be justified by submitting a variety of information, including

a proper patent policy, which must meet agency approval.

Other Federal agencies comply with the FPR requirements as covered above under DOD, with varying degrees of flexibility.

At the present time there is pending for issuance by the General Services Administration an Institutional Patent Agreement to apply to all agencies (to the extent possible under agency laws) for both grants and contracts with colleges and universities.

Representative Ray Thornton of the Committee on Science and Technology submitted April 6, 1977 a Bill cited as the "Uniform Federal Research and Development Act of 1977". This Bill would repeal all of the various patent requirements of earlier statutes and would substitute significantly more liberal provisions than these or than the President's 1963 and 1971 Statement of Government Patent Policy. Grants and contracts with all kinds of organizations would be affected.

Publication and Rights in Data provisions cover in many ways what are really the results of most college and university research. There is no ASPR or FPR clause relating specifically to publication. However, Federal agencies, particularly those agencies that have not contracted regularly with colleges and agencies, have been known not infrequently to request special contract clauses that require approval by the Contracting Officer before a paper can be released for publication. Sometimes this has gone so far as to require approval before public disclosure.

The best defense a college or university has against the general insertion of such provisions in a contract is the Freedom of Information Act. A legal brief contained in the Hearings of a Subcommittee of the Committee on Government Operations, House of Representatives used these salutory words:

"It is quite obvious that Congress's objective in enacting the Freedom of Information Act was to make Government held information freely available to the public. Disclosure was intended to be the overriding rule rather than the exception. Indeed, the whole legislative history of the Act unquestionably reveals Congress's intent that theAct establish a general policy of full disclosure unless the information sough was exempted under clearly delineated statutory language. Congress's action was supported by the Executive Branch of the Government as well. This is evident from the statement of President Johnson upon his signing of the bill which became the Freedom of Information Act on July 4, 1966, wherein the President said: 'I have always believed that freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted.' That free availability of information was the legislative intent seems uncontrovertible." 7

There is one area, however, in which a delay in publication is warranted, even under the Freedom of Information Act. This has to do with foreign patenting, since many countries deny a patent if a U.S. patent application has not been filed before publication. The delay should be short, however, not often longer than the delay between the submission of a manuscript and publication itself. ERDA which is very interested in foreign patents has standardized on a four month period between the submission of a manuscript to ERDA and the date of release for publication. Faster publication can be arranged where a knowledgeable person certifies that no inventions are disclosed.

The Rights in Data clause (ASPR 7-104.9 to be used where applicable, not required) specifies in essence that the Government shall have the unlimited right to use, duplicate or disclose technical data or computer software in whole or in part and to permit others so to do. Technical data means any recorded information of a scientific or technical nature. ERDA in its cost contracts goes further and specifies that all such data, etc. shall be the property of the Government. Theses can be excepted, on the grounds that the thesis must belong to the institution.

Insurance-Liability to Third Persons (ASPR 7-203.22) requires that the Contractor maintain such insurances as is required or approved by the Contracting Officer and for which he will be reimbursed. Contractor will be reimbursed for uninsured liabilities without regard to the limitation of cost clause, except liabilities due to failure to insure as required, or due to willful misconduct or lack of good faith of Contractor's directors, officers, managers or superintendents of a separate location in which the work is performed. Contractor must notify Government promptly of any suit or action filed where the Government has a liability and authorize Government representatives to collaborate with the insurance carrier or settle or defend the litigation.

In those cases of state institutions which claim total immunity from tort liability, the above clause is replaced by one which in essence states that the Government will not reimburse the Contractor for any liabilities.

Disputes (ASPR 7-103.12) concerning a question of fact (not law) arising under the contract are to be settled by the Contracting Officer but can be appealed then to the Secretary (or agency head). The decision of the Secretary (or agency head) or his duly authorized representative is final, unless a court determines it to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

In contracts among private parties it would be unthinkable to have one party to a contract decide a dispute. Decision by the courts or by third party arbitration along the lines of the American Arbitration Association would probably be the route taken. But in a Government contract the Government is soverign and cannot or will not submit to third party arbitration. However, the disputes clause given above does not function as onesidedly as it sounds,

since agencies employ appeals boards or hearing examiners who are at least semi-autonomous and whose decisions seem to be as impartial as one can get.

Type B-Clauses of a Kind Which Would Never Be Found in a NonGovernment Contract

1. The largest group of required clauses in this category, and the ones which have seriously affected college and university operations, are those which affect employment practices; all but the second are imposed either by legislation or by Executive Order. A very brief summary of these clauses follows:[8]

Contract Work Hours and Safety Standards Act (ASPR 7-103.16) requires premium pay for more than eight hours per day or forty hours per week.

Payment for overtime premiums (ASPR 7-203.27) requires Contracting Officer approval for payment of overtime premiums

Walsh-Healey Public Contracts Act (ASPR 7-103.17) covers minimum wages, maximum hours, child labor, and safe and sanitary working conditions.

Convict Labor Act (ASPR 7-104.17) lays down the conditions for the employment of convicts.

Disabled Veterans and Veterans of the Vietnam Era (ASPR 7-103.27) requires affirmative action programs for such personnel

Equal employment opportunity (ASPR 7-103.18) requires general affirmative action programs.

Employment of the Handicapped (new) requires affirmative action for the handicapped

2. A somewhat related group of required clauses bear upon the general economy, all required by regulation or statute.

Utilization of small business concerns (ASPR 7-104.14) requires a maximum amount of subcontracting to small business consistent with efficient performance.

Buy American Act (ASPR 7-104.3) requires preference to domestic products

Utilization of labor surplus area concerns (ASPR 7-104.20) requires preference in subcontracting to concerns in labor surplus areas.

Competition in subcontracting (ASPR 7-104.40) requires maximum competition in issuing purchase orders and subcontracting

Minority business enterprises (ASPR 7-104.36) requires that maximum practical opprotunity be given to these concerns when subcontracting

3. Next there is a group of required clauses related to payments and audit, all but the third required by statute.

Assignment of Claims (ASPR 7-103.8) is provided for pursuant to the Assignment of Claims Act of 1940

Examination of Records (ASPR 7-104.15) by the U.S. Comptroller General is provided for up to three years after final payment.

Audit by Department (ASPR 7-104.41 (a) ) is provided for up to three years after final payment.

Renegotiation (ASPR 7-103.13) provides for renegotiation to the extent required by the Renegotiation Act of 1951

4. Following these appear two clauses aimed at improper influences in obtaining contracts and required by statute.

Officials not to benefit (ASPR 7-103.19) prohibits any member of or delegate to Congress, or resident commissioner, from benefiting, but does not extend to contracts made with corporation for its general benefit.

Covenant against contingent fees (ASPR 7-103.20) prohibits with pain of contract annulment any contingent fees except for bona fide employees or contractors subagencies

5. Then there are two further patent and copyright clauses.

Authorization and Consent (ASPR 7-302.21) is given to the contractor to use any invention covered by a U.S. patent, which means that by law (28USE1498)

suits for infringement can only be maintained against the Government, not the contractor.

Notice and assistance regarding patent and copyright infringement (ASPR 7-103.23) must be given to the Government.

6. Finally there is Government property (ASPR 7-402.25). This is a long and complex clause covering the acquisition, marking, and accounting for, and disposition of property either charged to the Government or furnished by the Government. Title to all such property is in the Government and the Government assumes the risk of loss or damage except that which results from willful misconduct or lack of good faith of contractor's directors, officers, or responsible managers. The paperwork and inventory problems are large and costly.

Notwithstanding the above, DOD and NASA have established procedures for transferring title to the institution for all equipment at the time of acquisition, if it has been approved and if it costs less than $1,000 per item. Items over $1,000 can be transferred periodically. Other agencies, such as ERDA cost contracts, provide somewhat less flexibility. The authority for these equipment transfers was contained in the Grants Act of 1958 (in a paragraph not quoted in Section IV of this paper).

Other Contract Clauses

There are many other clauses in addition to the above that appear in some contracts to cover special situations, such as contracts that involve construction work, or access to classified information, etc. But what have been described can be considered to be the norm. It will be noted that there are thirteen contract clauses of Type A, which covers the core of what a contract should cover and twenty-one contract clauses of Type B, which contain requirements that would never be in a contract from a private sponsor and for the most part might be described as "legislation by contract."

GRANTS

Returning to Black's Law Dictionary,[3] we find a definition of grant as meaning "to bestow, to confer," which is not a great help. Grossbaum[9] states "among attempts to characterize the research grant as something other than a contract, themost common approaches have been to describe the instrument either as a 'conditional gift' or as a 'trust.'" However, the Comptroller General has stated that "the acceptance of the grant creates a contract between the United States and the grantee under which the moneyspaid over to the grantee... are charged with the obligation to be used for the purposes and subject to the conditions of the grant."[10] Nevertheless the Comptroller General does not seem to have ruled in any case that grants are contracts in the sense that they should be subject to the Armed Services Procurement Regulations or the Federal Procurement Regulations. Grants therefore do not have to include the many legislative, executive order and regulatory requirements that are required under ASPR and FPR and which have earlier been termed "legislation by contract."

The Catalog of Federal Domestic Assistance used a grant definition as cited in Section II which says in part "The funding, for fixed or known periods, of specific services or products without liability for damages for failure to perform." This is a statement seen no where else. It may be at variance with Comptroller General's rulings as to the contractual nature of grants. All grants require returning to the Government any funds spent for purposes other than performance of the grant. OMB Circular A-110 discussed below states that grants can be terminated for cause in which case "payments made to recipients or recoveries by the Federal sponsoring agencies under grants or other agreements terminated for cause shall be in accordance with the legal rights and liabilities of the parties." Thus there seem to be some liabilities connected with grants.

Effective July 1, 1977 the Office of Management and Budget issued Circular No. A-110 "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations". Its intent is to "replace the varying and often conflicting requirements that have been imposed by Federal agencies as conditions of grants and other agreements with recipients." A copy is attached as Attachment A.

Circular A-110 defines grant to "mean money or property provided in lieu of money paid or furnished by the Federal Government to recipients under programs that provide financial assistance or that provide support or stimulation to accomplish a public purpose." It goes on to state "Agencies responsible for administering programs that involve grants and other agreements with recipients shall issue the appropriate regulations necessary to implement the provisions of this Circular."

Thus, as is the case with the Armed Services Procurement Regulations and the Federal Procurement Regulations for contracts, the agencies affected by Circular A-110 put out their own regulations to implement and supplement the basic document. However, A-110 is much less complete than counterparts in ASPR or FPR. Far from all agencies have as yet issued their "manuals," but from those issued or reviewed in draft form the "supplementing" part is longer than the "implementing" part. Every one is much longer than a contract, even a contract for a Federally Funded Research and Development Center like the Princeton Plasma Physics Laboratory. Agency manuals do, however, cover more ground than contracts, particularly as to the submission of proposals and decisions on awards.

In order to provide a meaningful understanding of the requirements of contracts compared with grants, the following analysis is provided for each of the subjects covered by the contract clauses discussed earlier:

Type A-Clauses of a Kind Which Could Be Found in a NonGovernment Contract

Scope of work presumably does not differ much from contracts to grants, except that no grants ever include a Changes clause giving the agency the unilateral right to make changes. By the same token, the institution has no right to make unilateral changes in the scope of work. As far as reporting requirements are concerned, A-110 Attachment H is in much more detail.

Limitation of Cost applies in a grant as in a cost-reimbursement contract, with an institution having no obligation to continue research after the total amount of funds obligated has been reached.

Allowable cost and payment are also essentially the same, using the same cost principles (Circular A-21 or FMC 73-8) and with advance payments available in both cases. However, practically all grants require cost-sharing whereas, at length by law, cost-sharing in contracts is only required for HUD and the Independent Officers (NSF, NASA, etc.) where a proposal is unsolicited. Cost-sharing for grants is covered by Attachment E of Circular No. A-110.

As compared with contracts, Circular A-110 has additional requirements in the financial area. These include Attachment B Bonding and Insurance, Attachment F Standards for Financial Management Systems, Attachment G Financial Reporting Requirements, Attachment J Revision of Financial Plans, and Attachment K Closeout Procedures.

Standards of work and Inspection are not specified under a grant as in a contract but their applicability is implicit.

Subcontracts. In addition to the requirements contained in Attachment O of Circular No. A-110, agencies generally require in grants that prior approval be given for certain types of subcontracts and purchase orders not dissimilar from those required for contracts, except that in grants special purpose

equipment costing less than $1,000 does not require approval. Cost type or large (over $25,000 or 5% of grant amount) subcontracts also do not require approval in grants. However, provision is not always made as in contracts for approving procurements by approving the items contained in a proposal.

Termination is provided for grants by Attachment L of Circular No. A-110. It is reasonably consistent with the termination clauses for contracts, except that it provides for termination for cause in addition to termination for convenience. There is no requirement in grants as in contracts to deliver anything to the Government.

Patent Rights are covered for grants from Health, Education and Welfare and National Science Foundation by Institutional Patent Agreements as previously described. The Institution must have an approved patent policy and technology transfer capacility, or otherwise the President's Statement of Government Patent Policy of 1971 applies. Other agencies follow the same pattern as for contracts, unless and until the new IPA is issued by the General Services Administration. (However, see paragraph 8 Attachment N Circular A-110)

Publication and Rights in Data. Grants generally encourage and, in some cases require publication without any prior review or approval or delay for patent reasons as occasionally found in contracts. A royalty free nonexclusive license to the Government to reproduce and use, etc. is required similar to the requirements in contracts. Some NSF grants and most Office of Education grants, particularly where publishing and sale of materials developed under the grant are a specific purpose of the grant, contain conditions on the selection of a publisher and the distribution of any royalties earned.

Insurance-Liability to Third Persons does not seem to be covered by Circular No. A-110. However, as proposed National Science Foundation Grant Policy Manual[12] states "NSF assumes no liability with respect to accidents, bodily injury, illness, breach of contract or any other damages or loss, or

with respect to any claims arising out of any activities undertaken with the support to persons or property of the awardee or third parties." This is diametrically opposed to the cost contract clause where the Government requires or approves insurance but also assumes uninsured liabilities.

Disputes have traditionally not even been recognized in grants, since the decision of the grants officer or other official has been binding upon the grantee. However, recently the Department of Health, Education and Welfare has installed a formal disputes procedure, similar to that used for contracts. Whether other agencies will follow remains to be seen.

Type B-Clauses of a Kind Which Would Never Be Found in a Non-Government Contract

1. None of the clauses required in a contract with regard to employment practices are either required or used in a grant or grant manual. However, several are required in contracts issued by a grantee (see A-110 Attachment O paragraph 4).

2. None of the clauses (such as utilization of small business, Buy American, etc.) related to the general economy are either required or used in a grant or in a contract issued by a grantee.

3. With regard to the additional group of contract clauses related to payments and audit, only Examination of records by the Comptroller General is included (A-110, Attachment C).

4. Officials not to benefit, and Covenant against contingent fees aimed at improper influence in obtaining contracts are not included in grants or grant manuals.

5. Grantees are not given the protection of an Authorization and Consent clause, so that they may be sued and must pay any damages for infringing a patent.

6. With regard to Government property, Circular No. A-110 Attachment N as amplified by individual agencies does not need to have the problems inherent in Government ownership (except in special situations). Nevertheless agencies are expanding the paperwork, inventorying, and "property empires" in many cases far beyond what is required under paragraph 5, to a point where property accounting under grants and contracts will show little differences.

PAYMENTS

As will be seen in Section III of this paper, $880 million were obligated to colleges and universities in FY 1975 in a form of arrangment which the Catalog of Federal Domestic Assistance defines as "payments". This is a form of arrangement with which college and university grant and contract officers have little familiarity, since the paperwork and internal management are almost entirely in the hands of undergraduate financial aid officers. This is so because the funds received from the Office of Education in practically all of these programs are for payments and loans to undergraduate students.

Attachment B hereto is a copy of the Agreement with Princeton University which, in terms of total volume of all such agreements throughout the country, covers the three largest programs which the Assistance Catalog calls "payments." It is a relatively straightforward agreement but under its terms the university has certainly assumed some obligations as well as expecting some benefits. In other words the university is not just a funnel for money to students.

By Black's Law Dictionary, and probably by Comptroller General's decisions as well, the agreement of Attachment B is a contract, although not a contract by the Armed Services or Federal Procurement Regulations. In all likelihood, it can be called an agency contract. Black defines agency as "The relation created by express or implied contract or by law, whereby one party delegates

the transaction of some lawful business with more or less discretionary powers to another, who undertakes to manage the affair and redeem to him an account thereof."

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## V. THE NATURE OF THE RELATIONSHIP

The history of grants and contracts as given in Section II, their status today as given in Section III, and the terms and conditions as described in Section IV lead to some thought-provoking speculations and conclusions. Since the days of OSRD and early ONR, contract funds to colleges and universities have grown substantially, but relatively little compared with the enormous growth of grant funds, which were practically nonexistent then except for Agriculture formula grants. Contract terms and conditions have primarily expanded by a large addition of clauses that are not really relevant to the performance of work but are instead aimed at other objectives such as sociological or economic goals. Grants, on the other hand, have increased in requirements from relatively few up to a point wherein they equal or exceed the "Type A" contract clauses as described in Section IV; grants have not, however, included the sociological, economic and other types of provisions of "Type B" in Section IV.

Comparing the "Type A" provisions where there is a clear advantage for either grants or contracts:

Grants have a preference with regard to Scope of Work if the institution accepts a contract changes clause.

Contracts have a preference with regard to allowable cost and payment, since fewer contracts require cost sharing and the contract clause does not specify as many accounting and financial features as does OMB Circular A-110.

Grants have a preference with regard to publication if the institution accepts a contract clause requiring approval of publication.

Contracts have a preference with regard to patent infringements, although this is not of much importance.

Contracts have a preference with regard to insurance and liability.

Contracts have a preference with regard to disputes (except DHEW, which now has a disputes procedure for grants).

But the net preference for contracts in the above analysis is far outweighed by all of the "Type B" sociological, economic and other types of clauses that must be included in contracts. Why the Government does not insist on these provisions in grants is hard to understand, if they are sound Government policy.

ASSISTANCE

Unless we are to skip a few years into George Orwell's Newspeak, the meaning of words is important. In the various documents cited previously, grants are described as conditional gifts, or support, or assistance. Some have even described them as a subsidy or as philanthropy. There is one thing that all these words seem to have in common. There is little expected of value from the recipient, only to the recipient (except in a secondary sense). In terms of a Government grant, therefore, the implication is that there are no mutual benefits to the recipient on the one hand and to the Government or a Government mission on the other hand.

Perusing the lists of programs in Section III, there are some but not many which seem to fit the above criterion applicable to grants, or assistance, as follows:

DHEW - Office of Education

College library resources project grants

Higher education strengthening developing institutions project grants

DHEW - Health Resources Administration

Schools of public health formula grants

Nursing capitation grants

Schools of nursing financial distress project grants

DHEW - National Institutes of Health

Medical library assistance project grants

Cancer construction project grants and contracts

Cancer centers support project grants

Veterans Administration

Assistance in the establishment of new state medical schools project grants

Assistance to health manpower training institutions project grants

Historically there are other programs that can properly be termed assistance. The PWA grants for campus buildings in the 1930s can be clearly put in this category. The 1960s NSF science development grants to help institutions and departments develop their potential also fit the definition of assistance, although here as in practically all such cases there is the expectation of secondary or indirect benefit in return. The 1960s facility grants of NSF, HEW and NASA also fit.

However, the NSF institutional grant program or the NIH biomedical science support programs, although the agencies do not approve as in project grants the use of the funds, are not assistance to the recipients. Both are expected to

benefit the agency missions, in the same way that independent research and development allowed as an overhead cost to industry is expected to benefit the sponsoring agencies missions. The "payments" of more than $880 million which become eventually scholarships, compensation and loans to students are not assistance to the colleges and universities that initially receive them; the institutions are acting as agents under contract with the Government for disbursement. The old formula grants under the Hatch and Smith-Lever Acts were to provide agricultureal services to farmers, not to assist agricultural colleges per se.

Finally with regard to most of the other programs listed in Section III of this paper, the payments made do not fit the definition of assistance to the institutions involved. They are made in the expectation of value or benefit to the Government or to a Government mission, not primarily to the recipient for his own use. With regard to the National Institutes of Health, for example, there is an expectation of value or benefit to the health of the nation. When the Government accepted Vannevar Bush's recommendation and established a National Science Foundation, the advancement of science was accepted as a Government mission. Bush, himself, recognized the mutual benefit and value nature of the relationships that would be established between Government and those who advanced science when he specifically termed those relationships "contracts" as well as grants.

The truly remarkable thing to be noted about the programs listed in Section III is <u>how many of them employ both grants and contracts.</u> The contracts must all be governed by the Federal Procurement Regulations and therefore the terms and conditions must be as set forth in Section IV. It is very often the case that a grant is used for a college or university

(since this is authorized under the Grants Act) whereas a contract is used for a profit-making organization since the Grants Act does not authorize a grant in this situation. With both types of instruments being used for a large number of programs, it is very hard to believe that the basic nature of the relationships is different in so many cases just because of the type of performer. No matter whether a university or a drug company is the performer, something of value or benefit seems to be expected, either to the Government or to a Government mission, not entirely to the recipient.

Yet the Report of the Commissioner on Federal Procurement and the Chiles Bill (See Attachment C) referred to in Section II would put grants of the above type under the same umbrella, or into the same fishbowl, as grants or grants-in-aid to state and local governments. The latter are almost always of primary benefit to the recipient (which includes collectively the government and its people). There is no intention here of disparaging such assistance, but only to bring the differences to light. The recipient of assistance is not expected to render benefits in return. The recipient of a contractual arrange- arrangement expects to benefit himself but also to render benefits in return.

This paper is not intended to be a critique of the Chiles Bill per se (See Attachment C), although much of what has been written has a bearing. However, it cannot be left unsaid that the Bill prescribes the kinds of instruments to be used for all Federal payments of all types to all recipients except individuals, thus including state and local governments, nonprofit organizations and profit organizations. Only two basic forms of instruments are provided, assistance (divided into grants and cooperative agreements) and procurements. Procurement is limited to the acquisition of property or services for the direct benefit or use of the Federal Government, although a procurement contract can be used otherwise on the

basis of a case by case determination. Thereis a considerable amount of research and development which profit-making organizations perform under contract with the Government which is practically impossible to describe as being for the Government's direct benefit or use, such as that listed in the Assistance Catalog and summarized in Section III where both grants and contracts are used for the same program. Under the Chiles Bill, then, are profit-making organizations to receive grants and cooperative agreements? With a fee? With mandatory cost-sharing?

FOR VALUE RECEIVED

One may suspect that there are those in Government and in colleges and universities who advocate the assistance, or support, or conditional gift concept for reasons that are not always manifest. For those in Government, for example, assistance may be attractive because it connotes benevolence, or generosity, or liberality, all of which are righteous attributes. Accompanying them, however, is the principle of cost-sharing by the recipient, to serve as a tender of his interest and to help assure his performance .

Than rules and regulations are imposed to make certain that the donated funds are spent properly, since there is little judgment of the value of results. Finally, assistance is more subject to political pressures and to formulas for distribution on population or geographical bases, rather than on the basis of merit judged through a peer review system or otherwise.

On the college or university side there may be those who do not like the concept that the Government should expect something of value. This is somewhat like the university scientist who shies away from any research if the results of that research could be applied or used. Yet it is more than this also, it is a concern against being held accountable, not necessarily for the results, but for having devoted best efforts towards achieving the research objectives set forth in a proposal.

Neither sets of reasons for embracing the assistance concept for the vast majority of Government supported activities in colleges and universities are convincing. For in those activities the Government should continue to expect that values and benefit will be received either for the Government, or for a Government mission, and not primarily by the recipient of funds.

Assistance connotes strongly that need is a major factor in determining the distribution of funds. A mutual benefit arrangement does not. It is only under a mutual benefit arrangement, where both parties expect something of value, that the Government can choose to fund those proposals which will best fulfill its missions, whether those missions be the advancement of science, better health care, education of the handicapped, etc. It is only under a mutual benefit arrangement that the college or university can expect to function on a coequal plane in its relations with the Government, not as a supplicant for assistance.

Finally, unless Orwellian terms are used, assistance does not mean doing the whole job or paying the full cost. Thus in an assistance relationship it is hard to see how cost-sharing will be eliminated in one form or another, whether it is by legislation, by regulatinn or agency policy, by the actions of agency components, or by disallowing costs of a type allowed to other organizations. On the other hand, it is hard to see how cost-sharing can reasonably be maintained if there is general acceptance in words and in fact that there is a mutual benefit relationship where payment is made for value received.

A THIRD INSTRUMENT

If the conclusion reached in the preceeding part is accepted, this means, based on all legal precedents, that some forms of contractual instrument must be used for most Government relations with colleges and universities. However, it does not necessarily mean that a contract must be used as set forth in the Armed Service Procurement Regulations and the Federal Procurement Regulations. The Government uses other contractual instruments also, as for the "payments" discussed in Section IV. But it should be something different from a grant or grant-in-aid used with states or local governments, or for those instances as set forth earlier in the Section where funds are paid to colleges and universities without the expectation of value or benefit (except indirectly). The 1966 OMB report, called the Westrate report in Section II, is one possible guide, but it was limited to research. A full contract as discussed in Section IV, with all of the "Type B" clauses would be unnecessarily burdensome. A third instrument, called perhaps an "Institutional Agreement," is perhaps the best answer. Among other things, this should make it clear that colleges

and universities are not petitioning for a "hand-out" when they submit a proposal, they have something of value to offer, and they should not have to share the costs to prove their interest. To the extend humanly possible, terms and conditions should be limited to bare minimum necessary. It is not so much the "behavior" of institutions that needs to be controlled in spending Government funds, as it is whether value or benefit is being received in some way commensurate with the costs.

Federally Funded Research and Development Centers should probably continue to operate under ASPR or FPR.

## VI. CONCLUSIONS

1. Some of the problems encountered in grants and contracts today can be traced back to the very earliest grants in 1887 from the Department of Agriculture.

2. The Office of Scientific Research and Development in World War II and the Office of Naval Research just after the war established a pattern for contracting with colleges and universities that was much more reasonable and acceptable than contracts today. Today's contracts are more burdensome primarily because of conditions that would never be found in contracts between private parties, and are aimed at primarily sociological and economic effects.

3. The terms of grants from Federal agencies have proliferated to a point where they equal or exceed contracts, except for the contract terms aimed primarily at sociological, economic or other effects. Three contract clauses (allowable cost, liability and disputes) are clearly preferable to grant provisions.

4. Some of the cost principles used in grants and contracts are not as favorable today as they were in OSRD contracts or the old Blue Book.

5. Mandatory cost-sharing, starting as it did with the earliest grants, continues to be an irritating and sometimes expensive requirement despite all kinds of studies and recommendations that it be eliminated.

6. Patent requirements are overly complicated but may be greatly simplified by new legislation.

7. Property accounting, continually a bane when one deals with the Government, gets no simplier, with grants now approaching contracts in complexity.

8. Unless one talks in George Orwell's Newspeak, most of the Federal arrangements with colleges and universities are not "assistance" but a contractual arrangement in which the institution is expected to produce results of benefit or value to the Government or to a Government mission, not solely to the institution itself. Some of the present day grants, however, clearly fit an assistance definition.

9. To implement the conclusion in 8 above, a new type of relationship needs to be developed, one that is not "assistance" and one that is not "procurement" in ASPR and FPR terms, but a third form which recognizes the nature of colleges and universities and what they have to offer to the Government and to the nation.

ATTACHMENT A

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 3, 1976

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Errata Sheet to Office of Management and Budget Circular No. A-110

Attached is an Errata Sheet for Office of Management and Budget Circular No. A-110, "Uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations" dated July 1, 1976, which appeared in the Federal Register on July 30, 1976 (41 F.R. 32016).

Attachment

## ERRATA SHEET

**OMB Circular No. A-110**
**Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations**

Page 32016

Paragraph 5 -- change "statue" to "statute"
Paragraph 11 -- change "contracting" to "contacting"
Attachment A, Paragraph 3 -- change "require" to "required"

Page 32017

Attachment D, Paragraph 1 -- change "coprights" to "copyrights"
Attachment E, Paragraph 2d -- change "non-expandable" to "non-expendable"

Page 32029

Attachment J, Paragraph 3c -- change "increases indirect" to "increase in direct"

Page 32030

Attachment J, Paragraph 9 -- delete "or contracts"
Attachment L, Paragraph 3 -- change "termination" to "terminate"
Attachment M, Paragraph 1 -- change "Cricular" to "Circular" and "etxend" to "extend"

Page 32035

Attachment N, Paragraph 2c -- change "exempt" to "except"
Attachment N, Paragraph 6b(1)(a) should read as follows:
"(a) Activities sponsored by the same Federal agency."

Page 32036

Attachment N, Paragraph 6d(5) -- change "Adequately" to "Adequate"

Page 32037

Attachment O, Paragraph 4j -- change "Clear" to "Clean"

federal register

BOOK 2 OF 2 BOOKS

FRIDAY, JULY 30, 1976

PART II:

# OFFICE OF MANAGEMENT AND BUDGET

■

# GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Uniform Administrative Requirements

## OFFICE OF MANAGEMENT AND BUDGET

[Circular No. A-110]

### GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

#### Uniform Administrative Requirements

JULY 1, 1976.

To the heads of executive departments and establishments.

Subject: Uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations

1. *Purpose.*—This Circular promulgates standards for obtaining consistency and uniformity among Federal agencies in the administration of grants to, and other agreements with, public and private institutions of higher education, public and private hospitals, and other quasi-public and private nonprofit organizations. This Circular does not apply to grants, contracts, or other agreements between the Federal Government and units of State or local governments covered by Federal Management Circular 74-7.

2. *Effective date.*—The standards in the attachments to this Circular will be applied as soon as practicable but not later than January 1, 1977.

3. *Supersession.*—This Circular rescinds and replaces parts III and IV of the Appendix to Federal Management Circular 73-7, Administration of college and university research grants.

4. *Policy intent.*—The uniform standards and requirements included in the attachments to this Circular replace the varying and often conflicting requirements that have been imposed by Federal agencies as conditions of grants and other agreements with recipients.

5. *Applicability and scope.*—Except as provided below, the standards promulgated by this Circular are applicable to all Federal agencies. If any statue expressly prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the statute shall govern.

The provisions of the attachments of this Circular shall be applied to subrecipients performing substantive work under grants that are passed through or awarded by the primary recipient if such subrecipients are organizations described in paragraph 1.

6. *Definitions.*

a. The term "grant" means money or property provided in lieu of money paid or furnished by the Federal Government to recipients under programs that provide financial assistance or that provide support or stimulation to accomplish a public purpose. The term "other agreements" does not include contracts which are required to be entered into and administered under procurement laws and regulations. Grants and other agreements exclude (a) technical assistance programs, which provide services instead of money, (b) assistance in the form of general revenue sharing, loans, loan guarantees, or insurance, and (c) direct payments of any kind to individuals.

b. The term "recipient" includes the following types of nonprofit organizations that are receiving Federal funds from a Federal agency or through a State or local government:

Public and private institutions of higher education; public and private hospitals; and other quasi-public and private nonprofit organizations such as (but not limited to) community action agencies, research institutes, educational associations, and health centers.

The term does not include foreign or international organizations (such as agencies of the United Nations) and Government-owned contractor operated facilities or research centers providing continued support for mission-oriented, large scale programs that are Government-owned or controlled, or are designed as federally-funded research and development centers.

7. *Requests for exceptions.*—The Office of Management and Budget may grant exceptions from the requirements of this Circular when exceptions are not prohibited under existing laws.

However, in the interest of maximum uniformity, exceptions from the requirements of the Circular will be permitted only in unusual cases. Agencies may apply more restrictive requirements to a class of recipients when approved by the Office of Management and Budget.

8. *Attachments.*—The standards promulgated by this Circular are set forth in the Attachments, which are:

| | |
|---|---|
| Attachment A | Cash depositories. |
| Attachment B | Bonding and insurance. |
| Attachment C | Retention and custodial requirements for records. |
| Attachment D | Program income. |
| Attachment E | Cost sharing and matching. |
| Attachment F | Standards for financial management systems. |
| Attachment G | Financial reporting requirements. |
| Attachment H | Monitoring and reporting program performance. |
| Attachment I | Payment requirements. |
| Attachment J | Revision of financial plans. |
| Attachment K | Closeout procedures. |
| Attachment L | Suspension and termination procedures. |
| Attachment M | Standard form for applying for federal assistance. |
| Attachment N | Property management standards. |
| Attachment O | Procurement standards. |

9. *Exceptions for certain recipients.*—Notwithstanding the provisions of paragraph 7 if an applicant/recipient has a history of poor performance, is not financially stable, or its management system does not meet the standards prescribed in the Circular, Federal agencies may impose additional requirements as needed provided that such applicant/recipient is notified in writing as to:

a. Why the additional standards are being imposed;

b. what corrective action is needed.

Copies of such notifications shall be sent to the Office of Management and Budget and other agencies funding that recipient at the same time the recipient is notified.

10. *Responsibilities.*—Agencies responsible for administering programs that involve grants and other agreements with recipients shall issue the appropriate regulations necessary to implement the provisions of this Circular. All portions of such regulations that involve record-keeping and/or reporting requirements subject to the provisions of the Federal Reports Act and OMB Circular A-40 must be submitted to OMB for clearance before being introduced into use. Upon request all regulations and instructions implementing this Circular shall be furnished to the Office of Management and Budget. Agencies shall also designate an official to serve as the agency representative on matters relating to the implementation of this Circular. The name and title of such representative shall be furnished to the Office of Management and Budget not later than August 30, 1976.

11. *Inquiries.*—Further information concerning this Circular may be obtained by contracting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone 395-3993.

JAMES T. LYNN,
*Director.*

ATTACHMENT A.—CIRCULAR NO. A-110

CASH DEPOSITORIES

1. This attachment sets forth standards governing the use of banks and other institutions as depositories of funds advanced under grants and other agreements.

2. Except for situations described in paragraphs 3, 4, and 5, no Federal sponsoring agency shall:

a. Require physical segregation of cash depositories for funds which are provided to a recipient.

b. Establish any eligibility requirements for cash depositories for funds which are provided to a recipient.

3. A separate bank account shall be require when applicable letter-of-credit agreements provide that drawdowns will be made when the recipient's checks are presented to the bank for payment.

4. Any moneys advanced to a recipient which are subject to the control or regulation of the United States or any of its officers, agents or employees' (public moneys as defined in Treasury Circular No. 176, as amended) must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally secured.

5. Consistent with the national goal of expanding the opportunities for minority business enterprises, recipients and subrecipients shall be encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members).

ATTACHMENT B.—CIRCULAR NO. A-110

BONDING AND INSURANCE

1. This attachment sets forth bonding and insurance requirements for grants and other agreements with recipients. No other bonding and insurance requirements shall be imposed other than those normally required by the recipient.

2. Except as otherwise required by law, a grant or other agreement that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own re-

quirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

a. *A bid guarantee from each bidder equivalent to five percent of the bid price.*—The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. *A performance bond on the part of the contractor for 100 percent of the contract price.*—A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. *A payment bond on the part of the contractor for 100 percent of the contract price.*—A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Federal agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

4. The Federal sponsoring agency may require adequate fidelity bond coverage where the recipient has no coverage and the bond is needed to protect the Government's interest.

5. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223).

ATTACHMENT C.—CIRCULAR NO. A-110

RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS

1. This attachment sets forth record retention requirements for grants and other agreements with recipients. Federal sponsoring agencies shall not impose any record retention requirements upon recipients other than those described below.

2. Except for paragraph 1, this attachment also applies to subrecipients as referred to in paragraph 8 of the basic circular.

3. Financial records, supporting documents, statistical records, and all other records pertinent to an agreement shall be retained for a period of three years, with the following qualifications:

a. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

b. Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after its final disposition.

c. When records are transferred to or maintained by the Federal sponsoring agency, the 3-year retention requirement is not applicable to the recipient.

4. The retention period starts from the date of the submission of the final expenditure report or, for grants and other agreements that are renewed annually, from the date of the submission of the annual financial status report.

5. Recipient organizations should be authorized by the Federal sponsoring agency, if they so desire, to substitute microfilm copies in lieu of original records.

6. The Federal sponsoring agency shall request transfer of certain records to its custody from recipient organizations when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, a Federal sponsoring agency may make arrangements with recipient organizations to retain any records that are continuously needed for joint use.

7. The head of the Federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient organization and their subrecipients to make audits, examinations, excerpts and transcripts.

8. Unless otherwise required by law, no Federal sponsoring agency shall place restrictions on recipient organizations that will limit public access to the records of recipient organizations that are pertinent to a grant or agreement except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal sponsoring agency.

ATTACHMENT D.—CIRCULAR NO. A-110

PROGRAM INCOME

1. Federal sponsoring agencies shall apply the standards set forth in this attachment in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds. Program income represents gross income earned by the recipient from the federally supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and coprights.

2. Interest earned on advances of Federal funds shall be remitted to the Federal agency except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Public Law 90-577).

3. Proceeds from the sale of real and personal property either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with Attachment N to this circular pertaining to property management.

4. Unless the agreement provides otherwise, recipients shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement (see paragraph 8, Attachment N).

5. All other program income earned during the project period shall be retained by the recipient and, in accordance with the grant or other agreement, shall be:

a. Added to funds committed to the project by the Federal sponsoring agency and recipient organization and be used to further eligible program objectives;

b. Used to finance the non-Federal share of the project when approved by the Federal sponsoring agency; or

c. Deducted from the total project costs in determining the net costs on which the Federal share of costs will be based.

ATTACHMENT E.—CIRCULAR NO. A-110

COST SHARING AND MATCHING

1. This attachment sets forth criteria and procedures for the allowability of cash and in-kind contributions made by recipients or subrecipients (as referred to in paragraph 5 of the basic circular), or third parties in satisfying cost sharing and matching requirements of Federal sponsoring agencies. This attachment also establishes criteria for the evaluation of in-kind contributions made by third parties, and supplements the guidance set forth in Federal Management Circular 73-3 with respect to cost sharing on federally-sponsored research.

2. The following definitions apply for the purpose of this attachment:

a. *Project costs.*—Project costs are all allowable costs (as set forth in the applicable Federal cost principles) incurred by a recipient and the value of the in-kind contributions made by the recipient or third parties in accomplishing the objectives of the grant or other agreement during the project or program period.

b. *Cost sharing and matching.*—In general, cost sharing and matching represent that portion of project or program costs not borne by the Federal Government.

c. *Cash contributions.*—Cash contributions represent the recipient's cash outlay, including the outlay of money contributed to the recipient by non-Federal third parties.

d. *In-kind contributions.*—In-kind contributions represent the value of noncash contributions provided by the recipient and non-Federal third parties. Only when authorized by Federal legislation, may property purchased with Federal funds be considered as the recipient's in-kind contributions. In-kind contributions may be in the form of charges for real property and non-expendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

3. General guidelines for computing cost sharing or matching are as follows:

a. Cost sharing or matching may consist of:

(1) Charges incurred by the recipient as project costs. (Not all charges require cash outlays by the recipient during the project period; examples are depreciation and use charges for buildings and equipment.)

(2) Project costs financed with cash contributed or donated to the recipient by other non-Federal public agencies and institutions, and private organizations and individuals, and

(3) Project costs represented by services and real and personal property, or use thereof, donated by other non-Federal public agencies and institutions, and private organizations and individuals.

b. All contributions, both cash and in-kind, shall be accepted as part of the recipient's cost sharing and matching when such contributions meet all of the following criteria:

(1) Are verifiable from the recipient's records;

(2) Are not included as contributions for any other federally-assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives;

(4) Are types of charges that would be allowable under the applicable cost principles;

(5) Are not paid by the Federal Government under another assistance agreement (unless the agreement is authorized by Federal law to be used for cost sharing or matching);

(6) Are provided for in the approved budget when required by the Federal agency; and

(7) Conform to other provisions of this attachment.

4. Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.

5. Specific procedures for the recipients in establishing the value of in-kind contribu-

tions from non-Federal third parties are set forth below:

a. *Valuation of volunteer services.*—Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer services may be counted as cost sharing or matching if the service is an integral and necessary part of an approved program.

(1) *Rates for volunteer services.*—Rates for volunteers should be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates should be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved.

(2) *Volunteers employed by other organizations.*—When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead costs) provided these services are in the same skill for which the employee is normally paid.

b. *Valuation of donated, expendable personal property.*—Donated, expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the market value of the property at the time of the donation.

c. *Valuation of donated, nonexpendable personal property, buildings, and land or use thereof.*

(1) The method used for charging cost sharing or matching for donated nonexpendable personal property, buildings and land may differ according to the purpose of the grant or other agreement as follows:

(a) If the purpose of the grant or other agreement is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(b) If the purpose of the agreement is to support activities that require the use of equipment, buildings or land, depreciation or use charges for equipment and buildings may be made. The full value of equipment or other capital assets and fair rental charges for land may be allowed provided that the Federal agency has approved the charges.

(2) The value of donated property will be determined in accordance with the usual accounting policies of the recipient with the following qualifications:

(a) *Land and buildings.*—The value of donated land and buildings may not exceed its fair market value, at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or GSA representatives) and certified by a responsible official of the recipient.

(b) *Nonexpendable personal property.*—The value of donated nonexpendable personal property shall not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

(c) *Use of space.*—The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(d) *Loaned equipment.*—The value of loaned equipment shall not exceed its fair rental value.

6. The following requirements pertain to the recipient's supporting records for in-kind contributions from non-Federal third parties.

a. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its employees.

b. The basis for determining the valuation for personal services, material, equipment, buildings and land must be documented.

ATTACHMENT P.—CIRCULAR NO. A-110

STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

1. This attachment prescribes standards for financial management systems of recipients. Federal sponsoring agencies shall not impose additional standards on recipients unless specifically provided for in the applicable statutes (e.g., the Joint Funding Simplification Act, P.L. 93-510) or other attachments to this circular. However, Federal sponsoring agencies are encouraged to make suggestions and assist recipients in estbalishing or improving financial management systems when such assistance is needed or requested.

2. Recipients' financial management systems shall provide for:

a. Accurate, current and complete disclosure of the financial results of each federally sponsored project or program in accordance with the reporting requirements set forth in Attachment G to this circular. When a Federal sponsoring agency requires reporting on an accrual basis, the recipient shall not be required to establish an accrual accounting system but shall develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

b. Records that identify adequately the source and application of funds for federally sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income.

c. Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

d. Comparison of actual outlays with budget amounts for each grant or other agreement. Whenever appropriate or required by the Federal sponsoring agency, financial information should be related to performance and unit cost data.

e. Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements.

f. Procedures for determining the reasonableness, allowability and allocability of costs in accordance with the provisions of the applicable Federal cost principles and the terms of the grant or other agreement.

g. Accounting records that are supported by source documentation.

h. Examinations in the form of audits or internal audits. Such audits shall be made by qualified individuals who are sufficiently independent of those who authorize the expenditure of Federal funds, to produce unbiased opinions, conclusions or judgments. They shall meet the independence criteria along the lines of Chapter 3, Part 3 of the U.S. General Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions. These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the agreements. It is not intended that each agreement awarded to the recipient be examined. Generally, examinations should be conducted on an organization-wide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the Federal grants and other agreements. Such tests would include an appropriate sampling of Federal agreements. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every two years. The frequency of these examinations shall depend upon the nature, size and the complexity of the activity. These examinations do not relieve Federal agencies of their audit responsibilities, but may affect the frequency and scope of such audits.

i. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

3. Primary recipients shall require subrecipients (as defined in paragraph 5 of the basic circular) to adopt the standards in paragraph 2, above except for the requirement in subparagraph 2e, regarding the use of the letter-of-credit method and that part of subparagraph 2a, regarding reporting forms and frequencies prescribed in Attachment G to this circular.

ATTACHMENT G.—CIRCULAR NO. A-110

FINANCIAL REPORTING REQUIREMENTS

1. This attachment prescribes uniform reporting procedures for recipients to: summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the letter-of-credit method is not used; and promulgates standard forms incident thereto.

2. The following definitions apply for purposes of this attachment:

a. *Accrued expenditures.*—Accrued expenditures are the charges incurred by the recipient during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subrecipients, and other payees, and (3) other amounts becoming owed under programs for which no current services or performance is required.

b. *Accrued income.*—Accrued income is the sum of (1) earnings during a given period from (i) services performed by the recipient; and (ii) goods and other tangible property delivered to purchasers; and (2) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

c. *Federal funds authorized.*—Federal funds authorized are the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carry-over of unobligated funds from prior fiscal years when permitted by law or agency regulation.

d. *In-kind contributions.*—In-kind contributions are defined in Attachment E to this circular.

e. *Obligations.*—Obligations are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period that will require payment by the recipient during the same or a future period.

f. *Outlays.*—Outlays or expenditures represent charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-

kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

g. *Program income.*—Program income is defined in Attachment D of this circular. It may be reported on a cash or accrual basis, whichever is used for reporting outlays.

h. *Unobligated balance.*—The unobligated balance is the portion of the funds authorized by the Federal sponsoring agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

i. *Unliquidated obligations.*—For reports prepared on a cash basis, unliquidated obligations represent the amount of obligations incurred by the recipient that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

3. Only the following forms will be authorized for obtaining financial information from recipients.

a. *Financial Status Report (Exhibit 1).*

(1) Each Federal sponsoring agency shall require recipients to use the standardized Financial Status Report to report the status of funds for all nonconstruction projects or programs. The Federal sponsoring agencies may, however, have the option of not requiring the Financial Status Report when the Request for Advance or Reimbursement (paragraph 4a) or Report of Federal Cash Transactions (paragraph 3b) is determined to provide adequate information to meet their needs, except that a final Financial Status Report shall be required at the completion of the project when the Request for Advance or Reimbursement form is used only for advances.

(2) The Federal sponsoring agency shall prescribe whether the report shall be on a cash or accrual basis. If the Federal sponsoring agency requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(3) The Federal sponsoring agency shall determine the frequency of the Financial Status Report for each project or program considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually except as provided in subparagraph 3a(1) above. A final report shall be required at the completion of the agreement.

(4) Federal sponsoring agencies shall require recipients to submit the Financial Status Report (original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 days for annual and final reports. Extensions to reporting due dates may be granted upon request of the recipient.

b. *Report of Federal Cash Transactions (Exhibit 2).*

(1) When funds are advanced to recipients through letters of credit or with Treasury checks, the Federal sponsoring agencies shall require each recipient to submit a Report of Federal Cash Transactions. The Federal sponsoring agency shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement from the recipients.

(2) Federal sponsoring agencies may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(3) When practical and deemed necessary, the Federal sponsoring agencies may require receipts to report in the "Remarks" section the amount of cash advances in excess of three days' requirements in the hands of subrecipients and to provide short narrative explanations of actions taken by the recipients to reduce the excess balances.

(4) Recipients shall be required to submit not more than the original and two copies of the Report of Federal Cash Transactions 15 working days following the end of each quarter. The Federal sponsoring agencies may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(5) Federal sponsoring agencies may waive the requirement for submission of the Report of Federal Cash Transactions when monthly advances do not exceed $10,000 per recipient, provided that such advances are monitored through other forms contained in this attachment, or if, in the Federal sponsoring agency's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances.

4. Except as noted below, only the following forms will be authorized for the recipients in requesting advances and reimbursements.

a. *Request for Advance or Reimbursement (Exhibit 3).*

(1) Each Federal sponsoring agency shall adopt the Request for Advance or Reimbursement as a standardized form for all nonconstruction programs when letters-of-credit or predetermined advance methods are not used. Federal sponsoring agencies, however, have the option of using this form for construction programs in lieu of the Outlay Report and Request for Reimbursement for Construction Programs (subparagraph 4b).

(2) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when letters-of-credit are not used. Federal sponsoring agencies shall not require the submission of more than the original and two copies of the Request for Advance or Reimbursement.

b. *Outlay report and request for reimbursement for construction programs (Exhibit 4).*

(1) Each Federal sponsoring agency shall adopt the Outlay Report and Request for Reimbursement for Construction Programs as the standardized format to be used for requesting reimbursement for construction programs. The Federal sponsoring agencies may, however, have the option of substituting the Request for Advance or Reimbursement Form (subparagraph 4a) when the Federal agencies determine that it provides adequate information to meet their needs.

(2) Recipients shall be authorized to submit requests for reimbursement at least monthly when letters-of-credit are not used. Federal sponsoring agencies shall not require more than the original and two copies of the Outlay Report and Request for Reimbursement for Construction Programs.

5. When the Federal sponsoring agencies need additional information in using these forms or more frequent reports, the following shall be observed:

a. When additional information is needed to comply with legislative requirements, Federal sponsoring agencies shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

b. When necessary to meet specific program needs Federal sponsoring agencies shall submit the proposed reporting requirements to the Financial Management Branch, Budget Review Division, Office of Management and Budget for approval prior to submission of the reports for clearance under the provisions of OMB Circular No. A-40.

c. When a Federal sponsoring agency has determined that a recipient's accounting system does not meet the Standards for Financial Management contained in Attachment F to this circular, additional pertinent information to further monitor grants and other agreements may be obtained upon written notice to the recipient until such time as the system is brought up to standard.

d. The Federal sponsoring agency, in obtaining information as in paragraphs a, b and c above, must comply with report clearance requirements of the Office of Management and Budget Circular No. A-40, as revised.

6. Federal sponsoring agencies have the option of shading out any line item on any report that is unnecessary for decision-making purposes.

7. Federal sponsoring agencies should accept the identical information from the recipients in machine usable format or computer printouts in lieu of prescribed formats.

8. Federal sponsoring agencies may provide computer outputs to recipients when it will expedite or contribute to the accuracy of reporting.

9. Federal sponsoring agencies are authorized to reproduce these forms. The forms for reproduction purposes can be obtained from the Office of Management and Budget.

# FINANCIAL STATUS REPORT

*(Follow instructions on the back)*

| 1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED | 2. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER | OMB Approved No. 30-R0180 | PAGE OF PAGES |
|---|---|---|---|
| | | | |

| 3. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code) | 4. EMPLOYER IDENTIFICATION NUMBER | 5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER | 6. FINAL REPORT ☐ YES ☐ NO | 7. BASIS ☐ CASH ☐ ACCRUAL |
|---|---|---|---|---|
| | 8. PROJECT/GRANT PERIOD (See instructions) FROM (Month, day, year) | TO (Month, day, year) | 9. PERIOD COVERED BY THIS REPORT FROM (Month, day, year) | TO (Month, day, year) |

| 10. | STATUS OF FUNDS | | | | | |
|---|---|---|---|---|---|---|
| PROGRAMS/FUNCTIONS/ACTIVITIES ▶ | (a) | (b) | (c) | (d) | (e) | (f) | TOTAL (g) |
| a. Net outlays previously reported | $ | $ | $ | $ | $ | $ | $ |
| b. Total outlays this report period | | | | | | | |
| c. *Less*: Program income credits | | | | | | | |
| d. Net outlays this report period *(Line b minus line c)* | | | | | | | |
| e. Net outlays to date *(Line a plus line d)* | | | | | | | |
| f. *Less*: Non-Federal share of outlays | | | | | | | |
| g. Total Federal share of outlays *(Line e minus line f)* | | | | | | | |
| h. Total unliquidated obligations | | | | | | | |
| i. *Less*: Non-Federal share of unliquidated obligations shown on line h | | | | | | | |
| j. Federal share of unliquidated obligations | | | | | | | |
| k. Total Federal share of outlays and unliquidated obligations | | | | | | | |
| l. Total cumulative amount of Federal funds authorized | | | | | | | |
| m. Unobligated balance of Federal funds | | | | | | | |

| 11. PROJECT EXPENSE | a. TYPE OF RATE *(Place "X" in appropriate box)* ☐ PROVISIONAL ☐ PREDETERMINED ☐ FINAL ☐ FIXED | | | |
|---|---|---|---|---|
| | b. RATE | c. BASE | d. TOTAL AMOUNT | e. FEDERAL SHARE |
| | | | | |

12. REMARKS: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.

13. CERTIFICATION

I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | DATE REPORT SUBMITTED |
|---|---|
| TYPED OR PRINTED NAME AND TITLE | TELEPHONE (Area code, number and extension) |

269-101 EXHIBIT 1

STANDARD FORM 269 (7-76)
Prescribed by Office of Management and Budget
CIRCULAR NO. A-110

## INSTRUCTIONS

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

| Item | Entry |
|---|---|
| 4 | Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (institution) code, if required by the Federal sponsoring agency. |
| 5 | This space is reserved for an account number or other identifying numbers that may be assigned by the recipient. |
| 8 | Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period. |
| 10 | The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency. |
| 10a | Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report. |
| 10b | Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees. |
| 10c | Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income. |
| 10f | Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e. |
| 10h | Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are:<br><br>Cash basis—obligations incurred but not paid;<br><br>Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded.<br><br>Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance. |
| 10j | Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i. |
| 10k | Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations. |
| 10m | Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l. |
| 11b | Enter rate in effect during the reporting period. |
| 11c | Enter amount of the base to which the rate was applied. |
| 11d | Enter total amount of indirect cost charged during the report period. |
| 11e | Enter amount of the Federal share charged during the report period.<br><br>If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date. |

STANDARD FORM 269 (BACK) (7-76)

# FEDERAL CASH TRANSACTIONS REPORT

*(See instructions on the back. If report is for more than one grant or assistance agreement, attach completed Standard Form 272-A.)*

Approved by Office of Management and Budget, No. 80-R0182

1. Federal sponsoring agency and organizational element to which this report is submitted

2. RECIPIENT ORGANIZATION

*Name* :

*Number and Street* :

*City, State and ZIP Code:*

3. FEDERAL EMPLOYER IDENTIFICATION NO.

4. Federal grant or other identification number

5. Recipient's account number or identifying number

6. Letter of credit number

7. Last payment voucher number

*Give total number for this period*

8. Payment Vouchers credited to your account

9. Treasury checks received (whether or not deposited)

10. PERIOD COVERED BY THIS REPORT

FROM (month, day, year)

TO (month, day year)

11. STATUS OF FEDERAL CASH *(See specific instructions on the back)*

| | |
|---|---|
| a. Cash on hand beginning of reporting period | $ |
| b. Letter of credit withdrawals | |
| c. Treasury check payments | |
| d. Total receipts (*Sum of lines b and c*) | |
| e. Total cash available (*Sum of lines a and d*) | |
| f. Gross disbursements | |
| g. Federal share of program income | |
| h. Net disbursements (*Line f minus line g*) | |
| i. Adjustments of prior periods | |
| j. Cash on hand end of period | $ |

12. THE AMOUNT SHOWN ON LINE 11J, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING *Days*

13. OTHER INFORMATION

| | |
|---|---|
| a. Interest income | $ |
| b. Advances to subgrantees or subcontractors | $ |

14. REMARKS (*Attach additional sheets of plain paper, if more space is required*)

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement

AUTHORIZED CERTIFYING OFFICIAL

SIGNATURE

DATE REPORT SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (*Area Code*) (*Number*) (*Extension*)

THIS SPACE FOR AGENCY USE

272-101 EXHIBIT 2

STANDARD FORM 272 (7-76)
Prescribed by Office of Management and Budget
CIRCULAR NO. A-110

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## INSTRUCTIONS

Please type or print legibly. Items 1, 2, 8, 9, 10, 11d, 11e, 11h, and 15 are self explanatory, specific instructions for other items are as follows:

| *Item* | *Entry* |
|---|---|
| 3 | Enter employer identification number assigned by the U.S. Internal Revenue Service or the FICE (institution) code.<br><br>If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272–A, Report of Federal Cash Transactions—Continued; otherwise; |
| 4 | Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency. |
| 5 | This space reserved for an account number or other identifying number that may be assigned by the recipient. |
| 6 | Enter the letter of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank. |
| 7 | Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account. |
| 11a | Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks. |
| 11b | Enter total amount of Federal funds received through payment vouchers (Form TUS 5401) that were credited to your account during the reporting period. |
| 11c | Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited. |
| 11f | Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors, the gross amount of direct salaries and wages, including the employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs. |
| 11g | Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement. |
| 11i | Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required. |
| 11j | Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i). |
| 12 | Enter the estimated number of days until the cash on hand, shown on line 11j, will be expended. If more than three days cash reqirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or other reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances. |
| 13a | Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not remitted to the Federal sponsoring agency for over 60 days, explain under "Remarks." Do not report interest earned on advances to States. |
| 13b | Enter amount of advance to secondary recipients included in item 11h. |
| 14 | In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required. |

STANDARD FORM 272 (BACK) (7–76)

## FEDERAL CASH TRANSACTIONS REPORT
### CONTINUATION

*(This form is completed and attached to Standard Form 272 only when reporting more than one grant or assistance agreement.)*

Approved by Office of Management and Budget, No. 80-R0182

1. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

2. RECIPIENT ORGANIZATION *(Give name only as shown in item 8, SF 272)*

3. PERIOD COVERED BY THIS REPORT *(As shown on SF 272)*

FROM *(Month, day, year)* | TO *(Month, day, year)*

4. List information below for each grant or other agreement covered by this report. Use additional forms if more space is required.

| FEDERAL GRANT OR OTHER IDENTIFICATION *(Show a subdivision by other identifying numbers if required by the Federal Sponsoring Agency)* (a) | RECIPIENT ACCOUNT NUMBER OR OTHER IDENTIFYING NUMBER (b) | FEDERAL SHARE OF NET DISBURSEMENTS | |
|---|---|---|---|
| | | NET DISBURSEMENTS *(Gross disbursements less program income received)* FOR REPORTING PERIOD (c) | CUMULATIVE NET DISBURSEMENTS (d) |
| | | $ | $ |
| 5. TOTALS *(Should correspond with amounts shown on SF 272 as follows: column (c) the same as line 11h; column (d) the sum of lines 11h and 11i, of this SF 272 and cumulative disbursements shown on last report. Attach explanation of any differences.)* | | $ | $ |

272-101

STANDARD FORM 272-A (7-76)
Prescribed by Office of Management and Budget
CIRCULAR NO. A-110

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# REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0183

PAGE OF PAGES

1. TYPE OF PAYMENT REQUESTED
a. "X" one, or both boxes: ☐ ADVANCE ☐ REIMBURSEMENT
b. "X" the applicable box: ☐ FINAL ☐ PARTIAL

2. BASIS OF REQUEST: ☐ CASH ☐ ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6. EMPLOYER IDENTIFICATION NUMBER

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST
FROM (month, day, year) TO (month, day, year)

9. RECIPIENT ORGANIZATION
Name
Number and Street
City, State and ZIP Code

10. PAYEE (Where check is to be sent is different than item 9)
Name
Number and Street
City, State and ZIP Code

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

| PROGRAMS/FUNCTIONS/ACTIVITIES ▶ | (a) | (b) | (c) | TOTAL |
|---|---|---|---|---|
| a. Total program outlays to date (As of date) | $ | $ | $ | $ |
| b. Less: Cumulative program income | | | | |
| c. Net program outlays (Line a minus line b) | | | | |
| d. Estimated net cash outlays for advance period | | | | |
| e. Total (Sum of lines c & d) | | | | |
| f. Non-Federal share of amount on line e | | | | |
| g. Federal share of amount on line e | | | | |
| h. Federal payments previously requested | | | | |
| i. Federal share now requested (Line g minus line h) | | | | |
| j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances — 1st month | | | | |
| 2nd month | | | | |
| 3rd month | | | | |

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

| | |
|---|---|
| a. Estimated Federal cash outlays that will be made during period covered by the advance | $ |
| b. Less: Estimated balance of Federal cash on hand as of beginning of advance period | |
| c. Amount requested (Line a minus line b) | $ |

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL — DATE REQUEST SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE — Area Code — Number — Extension

This space for agency use

270-101 EXHIBIT 3

STANDARD FORM 270 (7-76)
Prescribed by Office of Management and Budget
CIRCULAR NO. A-110

## INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

| Item | Entry |
|---|---|
| 2 | Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis. |
| 4 | Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement. |
| 6 | Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency. |
| 7 | This space is reserved for an account number or other identifying number that may be assigned by the recipient. |
| 8 | Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested. |
| Note: | The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports. |
| 11 | The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. |
| 11a | Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees. |
| 11b | Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement. |
| 11d | Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance. |
| 13 | Complete the certification before submitting this request. |

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STANDARD FORM 270 BACK (7-76)

**OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS**

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0181

PAGE OF PAGES

| | |
|---|---|
| 1. TYPE OF REQUEST ☐ FINAL ☐ PARTIAL | 2. BASIS OF REQUEST ☐ CASH ☐ ACCRUAL |
| 3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED | 4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY |
| 5. EMPLOYER IDENTIFICATION NUMBER | 7. RECIPIENT ACCOUNT OR OTHER IDENTIFYING NUMBER |
| PERIOD COVERED BY THIS REPORT: FROM (Month, day, year) | TO (Month, day, year) |
| 9. RECIPIENT ORGANIZATION: Name; No. and Street; City, State and ZIP Code | 10. PAYEE (Where check should be sent if different than item 9): Name; No. and Street; City, State and ZIP Code |

11. STATUS OF FUNDS

| CLASSIFICATION | PROGRAMS—FUNCTIONS—ACTIVITIES (a) | (b) | (c) | TOTAL |
|---|---|---|---|---|
| a. Administrative expense | $ | $ | $ | $ |
| b. Preliminary expense | | | | |
| c. Land, structures, right-of-way | | | | |
| d. Architectural engineering basic fees | | | | |
| e. Other architectural engineering fees | | | | |
| f. Project inspection fees | | | | |
| g. Land development | | | | |
| h. Relocation expense | | | | |
| i. Relocation payments to individuals and businesses | | | | |
| j. Demolition and removal | | | | |
| k. Construction and project improvement cost | | | | |
| l. Equipment | | | | |
| m. Miscellaneous cost | | | | |
| n. Total cumulative to date (sum of lines a thru m) | | | | |
| o. Deductions for program income | | | | |
| p. Net cumulative to date (Line n minus line o) | | | | |
| q. Federal share to date | | | | |
| r. Rehabilitation grants (100% reimbursement) | | | | |
| s. Total Federal share (sum of lines q and r) | | | | |
| t. Federal payments previously requested | | | | |
| u. Amount requested for reimbursement | $ | $ | $ | $ |
| v. Percentage of physical completion of project | % | % | % | % |

12. CERTIFICATION

I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due which has not been previously requested and that an inspection has been performed and all work is in accordance with the terms of the award.

| | | |
|---|---|---|
| a. RECIPIENT | SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | DATE REPORT SUBMITTED |
| | TYPED OR PRINTED NAME AND TITLE | TELEPHONE (Area code, number and extension) |
| b. Representative certifying to line 11v. | SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | DATE SIGNED |
| | TYPED OR PRINTED NAME AND TITLE | TELEPHONE (Area code number and extension) |

271-101 EXHIBIT 4

STANDARD FORM 271 (7-76)
Prescribed by Office of Management and Budget
CIRCULAR NO. A110

## INSTRUCTIONS

Please type or print legibly. Items 3, 4, 5, 8, 9, 10, 11a, and 11v are self-explanatory; specific instructions for other items are as follows:

| Item | Entry |
|---|---|
| 1 | Mark the appropriate box. If the request is final, the amounts billed should represent the final cost of the project. |
| 2 | Show whether amounts are computed on an accrued expenditure or cash disbursement basis. |
| 6 | Enter the employer identification number assigned by the U.S. Internal Revenue Service [or FICE (institution) code if requested by the Federal agency]. |
| 7 | This space is reserved for an account number or other identifying number that may be assigned by the recipient. |
| 11 | The purpose of vertical columns (a) through (c) is to provide space for separate cost breakdowns when a large project has been planned and budgeted by program, function or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. All amounts are reported on a cumulative basis. |
| 11a | Enter amounts expended for such items as travel, legal fees, rental, of vehicles and any other administrative expenses. Include the amount of interest expense when authorized by program legislation. Also show the amount of interest expense on a separate sheet. |
| 11b | Enter amounts pertaining to the work of locating and designing, making surveys and maps, sinking test holes, and all other work required prior to actual construction. |
| 11c | Enter all amounts directly associated with the acquisition of land, existing structures and related right-of-way. |
| 11d | Enter basic fees for services of architectural engineers. |
| 11e | Enter other architectural engineering services. Do not include any amounts shown on line d. |
| 11f | Enter inspection and audit fees of construction and related programs. |
| 11g | Enter all amounts associated with the development of land where the primary purpose of the grant is land improvement. The amount pertaining to land development normally associated with major construction should be excluded from this category and entered on line k. |
| 11h | Enter the dollar amounts used to provide relocation advisory assistance and net costs of replacement housing (last resort). Do not include amounts needed for relocation administrative expenses; these amounts should be included in amounts shown on line e. |
| 11i | Enter the amount of relocation payments made by the recipient to displaced persons, farms, business concerns, and nonprofit organizations. |
| 11j | Enter gross salaries and wages of employees of the recipient and payments to third party contractors directly engaged in performing demolition or removal of structures from developed land. All proceeds from the sale of salvage or the removal of structures should be credited to this account; thereby reflecting net amounts if required by the Federal agency. |
| 11k | Enter those amounts associated with the actual construction of, addition to, or restoration of a facility. Also, include in this category, the amounts for project improvements such as sewers, streets, landscaping, and lighting. |
| 11l | Enter amounts for all equipment, both fixed and movable, exclusive of equipment used for construction. For example, permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment. |
| 11m | Enter the amounts for all items not specifically mentioned above. |
| 11n | Enter the total cumulative amount to date which should be the sum of lines a through m. |
| 11o | Enter the total amount of program income applied to the grant or contract agreement except income included on line j. Identify on a separate sheet of paper the sources and types of the income. |
| 11p | Enter the net cumulative amount to date which should be the amount shown on line n minus the amount on line o. |
| 11q | Enter the Federal share of the amount shown on line p. |
| 11r | Enter the amount of rehabilitation grant payments made to individuals when program legislation provides 100 percent payment by the Federal agency. |
| 11t | Enter the total amount of Federal payments previously requested, if this form is used for requesting reimbursement. |
| 11u | Enter the amount now being requested for reimbursement. This amount should be the difference between the amounts shown on lines s and t. If different, explain on a separate sheet. |
| 12a | To be completed by the recipient official who is responsible for the operation of the program. The date should be the actual date the form is submitted to the Federal agency. |
| 12b | To be completed by the official representative who is certifying to the percent of project completion as provided for in the terms of the grant or agreement. |

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STANDARD FORM 271 (7-76)

ATTACHMENT H.—CIRCULAR NO. A-110

MONITORING AND REPORTING PROGRAM PERFORMANCE

1. This attachment sets forth the procedures for monitoring and reporting program performance of recipients.

2. Recipients shall monitor the performance under grants and other agreements and, where appropriate, ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each agreement as set forth in the approved application or award document.

3. Recipients shall submit a performance report (technical report) for each agreement that briefly presents the following information for each program, function, or activity involved as prescribed by the Federal sponsoring agency:

a. A comparison of actual accomplishments with the goals established for the period, the findings of the investigator, or both. If the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

b. Reasons why established goals were not met.

c. Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

4. Except as provided in a and b below, and in subparagraph 3a(1), Attachment G, recipients shall submit the performance or technical reports to Federal sponsoring agencies and the Financial Status Reports covering the same period in the frequency established by Attachment G of this Circular and, where appropriate, a final technical or performance report after completion of the project on a date specified by the Federal sponsoring agency. The Federal sponsoring agency shall prescribe the frequency with which the performance reports will be submitted with the request for advance or reimbursement when that form is used in lieu of the Financial Status Report. Except as provided for in paragraph 5 below, performance reports shall not be required more frequently than quarterly or less frequently than annually. Federal sponsoring agencies may waive the requirement for recipients to submit performance reports with the financial reports under the following circumstances:

a. When the recipient is required to submit a performance report with a continuation or renewal application.

b. When the Federal sponsoring agency determines that on-site technical inspections and certified completion data will be sufficient to evaluate construction projects.

c. When the Federal sponsoring agency requests annual financial reports on a fiscal year basis but it is necessary to get annual progress reports on a calendar year basis.

5. Between the required performance reporting dates, events may occur that have significant impact upon the project or program. In such instances, the recipient shall inform the Federal sponsoring agency as soon as the following types of conditions become known:

a. Problems, delays, or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

b. Favorable developments or events that enable time schedules to be met sooner than anticipated or more work units to be produced than originally projected.

6. If any performance review conducted by the recipient discloses the need for change in the budget estimates in accordance with the criteria established in Attachment J to this Circular, the recipient shall submit a request for budget revision.

7. The Federal sponsoring agency shall make site visits as frequently as practicable to:

a. Review program accomplishments and management control systems; and

b. Provide such technical assistance as may be required.

8. Federal sponsoring agencies shall submit proposed technical and performance reports to the Office of Management and Budget for approval in accordance with the report clearance requirements of OMB Circular No. A-40 as revised.

ATTACHMENT I.—CIRCULAR NO. A-110

PAYMENT REQUIREMENTS

1. This attachment establishes the required methods of making payments to recipients. These methods will minimize the time elapsing between the disbursement by these recipients and the transfer of funds from the United States Treasury to these recipients whether such disbursement occurs prior to or subsequent to the transfer of funds.

2. Payments can be made to recipients through a letter-of-credit, an advance by Treasury check, or a reimbursement by Treasury check. The following definitions apply for the purpose of this attachment:

a. *Letter-of-Credit.*—A letter-of-credit is an instrument certified by an authorized official of a Federal sponsoring agency that authorizes a recipient to draw funds when needed from the Treasury, through a Federal Reserve bank and the recipient's commercial bank, in accordance with the provisions of Treasury Circular No. 1075, as revised.

b. *Advance by Treasury check.*—An advance by Treasury check is a payment made by a Treasury check to a recipient upon its request before outlays are made by the recipient, or through the use of predetermined payment schedules.

c. *Reimbursement by Treasury check.*—A reimbursement by Treasury check is a Treasury check paid to a recipient upon request for reimbursement from the recipient.

3. Except for construction grants and other construction agreements for which optional payment methods are authorized, as described in paragraph 5, the letter-of-credit method shall be used by Federal sponsoring agencies if all of the following conditions exist:

a. If there is or will be a continuing relationship between a recipient and a Federal sponsoring agency for at least a 12-month period and the total amount of advance payments expected to be received within that period from the Federal sponsoring agency is $250,000 or more, as prescribed by Treasury Circular No. 1075. For joint funded projects the Treasury has authorized a dollar criteria of $120,000.

b. If the recipient has established or demonstrated to the Federal sponsoring agency the willingness and ability to maintain procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the recipient.

c. If the recipient's financial management system meets the standards for fund control and accountability prescribed in Attachment F to this Circular, "Standards for Financial Management Systems."

4. The method of advancing funds by Treasury check shall be used, in accordance with the provisions of Treasury Circular No. 1075, when the recipient meets all of the requirements specified in paragraph 3, above, except those in subparagraph 3a.

5. The reimbursement by Treasury check method shall be the preferred method if the recipient does not meet the requirements specified in subparagraphs 3b and 3c, above. At the option of the Federal sponsoring agency, this method may also be used on any construction agreement, or if the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program. When the reimbursement method is used, the Federal sponsoring agency shall make payment within thirty days after receipt of the billing, unless the billing is improper.

6. When the letter-of-credit procedure is used, the recipient shall be issued one consolidated letter-of-credit whenever possible to cover anticipated cash needs for all grants and other agreements awarded by the sponsoring agency. Likewise, to the extent possible, when the advance by Treasury check method is used, advances should be consolidated (pooled) for all grants and other agreements made by the sponsoring agency to that recipient.

7. Unless otherwise required by law, Federal sponsoring agencies shall not withhold payments for proper charges made by recipients at any time during the project or program period unless (a) a recipient has failed to comply with the program objectives, award conditions, or Federal reporting requirements; or (b) the recipient is indebted to the United States, and collection of the indebtedness will not impair accomplishment of the objectives of a project or program sponsored by the United States.

Under such conditions, the sponsoring agency may, upon reasonable notice, inform the recipient that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

ATTACHMENT J.—CIRCULAR NO. A-110

REVISION OF FINANCIAL PLANS

1. This attachment sets forth criteria and procedures to be followed by Federal sponsoring agencies in requiring recipients to report deviations from financial plans and to request approvals for financial plan revisions.

2. The financial plan is the financial expression of the project or program as approved during the application and/or award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon sponsoring agency requirements. It should be related to performance for program evaluation purposes whenever appropriate and required by the Federal sponsoring agency.

3. For nonconstruction awards, recipients shall immediately request approval from Federal sponsoring agencies when there is reason to believe that within the next seven days a revision will be necessary for the following reasons:

a. Changes in the scope or the objective of the project or program.

b. The need for additional Federal funding.

c. The transfer of amounts budgeted for indirect costs to absorb increases indirect costs or vice versa, if approval is required by the Federal sponsoring agency.

d. The expenditures as require approval in accordance with FMC 73-8, "Cost Principles for Educational Institutions." For all other awards, approval requirements for other items of expenditures may be imposed if they are consistent with those in FMC 73-8. No other requirements for specific items may be

imposed unless a deviation has been approved by the Office of Management and Budget.

c. Recipients plan to transfer funds allotted for training allowances (direct payments to trainees) to other categories of expense.

4. None of the substantive programmatic work under a grant or other agreement may be subcontracted or transferred without prior approval of the Federal sponsoring agency. This provision does not apply to the purchase of supplies, material, equipment, or general support services.

5. The Federal sponsoring agency may also, at its option, restrict transfers of funds among direct cost categories for awards in which the Federal share exceeds $100,000 when the cumulative amount of such transfers exceeds or is expected to exceed five percent of the total budget as last approved by the sponsoring agency. The same criteria shall apply to the cumulative amount of transfers among programs, functions, and activities when budgeted separately for an award, except that the Federal sponsoring agency shall permit no transfer that would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

6. All other changes to nonconstruction budgets, except for the changes described in paragraph 8, below, do not require approval. This includes the use of recipient funds in furtherance of program objectives over and above the recipient minimum share included in the approved budget.

7. For construction awards, recipients shall request prior approvals promptly from Federal sponsoring agencies for budget revisions wherever:

a. The revision results from changes in the scope or the objective of the project or program, and

b. The revision increases the budget amounts of Federal funds needed to complete the project.

8. When a Federal sponsoring agency makes an award that provides support for both construction and nonconstruction work, the Federal sponsoring agency may require the recipient to request prior approval from the Federal sponsoring agency before making any fund or budget transfers between the two types of work supported.

9. For both construction and nonconstruction awards, Federal sponsoring agencies shall require recipients to notify the Federal sponsoring agency promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or five percent of the Federal award, whichever is greater. This notification will not be required if applications for additional funding are submitted for continuing grants or contracts.

10. When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless a letter request will suffice.

11. Within 30 calendar days from the date of receipt of the request for budget revisions, Federal sponsoring agencies shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal sponsoring agency shall inform the recipient in writing of the date when the recipient may expect the decision.

ATTACHMENT K.—CIRCULAR NO. A–110

CLOSEOUT PROCEDURES

1. This attachment prescribes uniform closeout procedures for Federal grants and other agreements with recipients.

2. The following definitions shall apply for the purpose of this attachment:

a. *Closeout.*—The closeout of a grant agreement is the process by which a Federal sponsoring agency determines that all applicable administrative actions and all required work of the agreement have been completed by the recipient and the Federal sponsoring agency.

b. *Date of completion.*—The date of completion is the date on which all work under grants and other agreements is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

c. *Disallowed costs.*—Disallowed costs are those charges to a grant or other agreement that the Federal sponsoring agency or its representative determines to be unallowable, in accordance with the applicable Federal cost principles or other conditions contained in the agreements.

3. All Federal sponsoring agencies shall establish closeout procedures that include the following requirements:

a. Upon request, the Federal sponsoring agency shall make prompt payments to a recipient for allowable reimbursable costs under the grant or other agreement being closed out.

b. The recipient shall immediately refund any balance of unobligated (unencumbered) cash that the Federal sponsoring agency has advanced or paid and that is not authorized to be retained by the recipient for use in other grants or other agreements.

c. The Federal sponsoring agency shall obtain from the recipient within 90 calendar days after the date of completion of the agreement all financial, performance, and other reports required as the condition of the agreement. The agency may grant extensions when requested by the recipient.

d. When authorized by the grant or other agreement, the Federal sponsoring agency shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.

e. The recipient shall account for any property acquired with Federal funds, or received from the Government in accordance with the provisions of Attachment N to this Circular, Property Management Standards.

f. In the event a final audit has not been performed prior to the closeout of the grant or other agreement, the Federal sponsoring agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

4. Suspension and termination procedures are contained in Attachment L to this Circular.

ATTACHMENT L.—CIRCULAR NO. A–110

SUSPENSION AND TERMINATION PROCEDURES

1. This attachment prescribes uniform suspension and termination procedures for Federal grants and other agreements with recipients.

2. The following definitions shall apply for the purpose of this attachment:

a. *Termination.*—The termination of a grant or other agreement means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

b. *Suspension.*—The suspension of a grant or other agreement is an action by a Federal sponsoring agency that temporarily suspends Federal sponsorship under the grant or other agreement, pending corrective action by the recipient or pending a decision to terminate the grant or other agreement by the Federal sponsoring agency.

3. All Federal sponsoring agencies shall provide procedures to be followed when a recipient has failed to comply with the terms of the grant or other agreement and conditions or standards. When that occurs, the Federal sponsoring agency may, on reasonable notice to the recipient, suspend the grant or other agreement, and withhold further payments; prohibit the recipient from incurring additional obligations of funds, pending corrective action by the recipient, or a decision to termination in accordance with paragraph 4. The Federal sponsoring agency shall allow all necessary and proper costs that the recipient could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal cost principles.

4. Federal sponsoring agencies shall provide for the systematic settlement of terminated grants or other agreements including the following:

a. *Termination for cause.*—The Federal sponsoring agency may reserve the right to terminate any grant or other agreement in whole or in part at any time before the date of completion, whenever it is determined that the recipient has failed to comply with the conditions of the agreement. The Federal sponsoring agency shall promptly notify the recipient in writing of the determination and the reasons for the termination, together with the effective date. Payments made to recipients or recoveries by the Federal sponsoring agencies under grants or other agreements terminated for cause shall be in accordance with the legal rights and liabilities of the parties.

b. *Termination for convenience.*—The Federal sponsoring agency or recipient may terminate grants and other agreements in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Federal sponsoring agency shall allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the recipient prior to termination.

ATTACHMENT M.—CIRCULAR NO. A–110

STANDARD FORM FOR APPLYING FOR FEDERAL ASSISTANCE

1. This attachment promulgates a standard form (SF 424) to be used by public and private institutions of higher education, public and private hospitals and other quasi-public and private nonprofit organizations as a face sheet for applications when applying for Federal grants under programs covered by Part I, Attachment A, OMB Circular No. A–95. In addition, agencies are particularly encouraged to etxend the use of SF 424 to common programs with State and local governments where this form is now required by FMC 74–7.

2. The SF 424 may also be used, on an optional basis, to fulfill the requirements of OMB Circular A–95 for a notification of intent, from applicant to clearinghouses, that Federal assistance will be applied for. Local or State clearinghouse procedures will govern the use of the form for this purpose.

3. The standard form will also be used by Federal agencies to report to the clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95, and to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082.

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OMB Approval No. 29-R0218

# FEDERAL ASSISTANCE

| | | | |
|---|---|---|---|
| 1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION | 2. APPLICANT'S APPLICATION a. NUMBER b. DATE Year month day 19 | 3. STATE APPLICATION IDENTIFIER a. NUMBER b. DATE Year month day ASSIGNED 19 | Leave Blank |

**SECTION I—APPLICANT/RECIPIENT DATA**

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City :
e. County :
f. State :
g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) a. NUMBER | | | ● | | | | b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify): _____
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITTING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

| | | |
|---|---|---|
| a. FEDERAL | $ | .00 |
| b. APPLICANT | | .00 |
| c. STATE | | .00 |
| d. LOCAL | | .00 |
| e. OTHER | | .00 |
| f. TOTAL | $ | .00 |

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT
b. PROJECT

15. TYPE OF CHANGE (For 12c or 12e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify): _____
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

**SECTION II—CERTIFICATIONS**

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

| | No response | Response attached |
|---|---|---|
| (1) | ☐ | ☐ |
| (2) | ☐ | ☐ |
| (3) | ☐ | ☐ |

23. CERTIFYING REPRESENTATIVE a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

**SECTION III—FEDERAL AGENCY ACTION**

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN ☐ a. AWARDED ☐ b. REJECTED ☐ c. RETURNED FOR AMENDMENT ☐ d. DEFERRED ☐ e. WITHDRAWN

32. FUNDING

| | | |
|---|---|---|
| a. FEDERAL | $ | .00 |
| b. APPLICANT | | .00 |
| c. STATE | | .00 |
| d. LOCAL | | .00 |
| e. OTHER | | .00 |
| f. TOTAL | $ | .00 |

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. ENDING DATE Year month day 19

36. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.
b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

STANDARD FORM 424 PAGE 1 (10-75)
Prescribed by GSA, Federal Management Circular 75-7

SECTION IV—REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

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## GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with Federal Management Circular 74–7. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

## APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

*Item*

1. Mark appropriate box. Pre-application and application guidance is in FMC 74–7 and Federal agency program instructions. Notification of intent guidance is in Circular A–95 procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A–95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.

3b. Date applicant notified of clearinghouse identifier.

4a–4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

5. Employer identification number of applicant as assigned by Internal Revenue Service.

6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.

6b. Program title from Federal Catalog. Abbreviate if necessary.

7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.

8. Mostly self-explanatory. "City" includes town, township or other municipality.

9. Check the type(s) of assistance requested. The definitions of the terms are:

   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.

   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).

   C. Loan. Self explanatory.

*Item*

   D. Insurance. Self explanatory.

   E. Other. Explain on remarks page.

10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.

11. Estimated number of persons directly benefiting from project.

12. Use appropriate code letter. Definitions are:

   A. New. A submittal for the first time for a new project.

   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.

   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).

   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.

   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.

14a. Self explanatory.

14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."

15. Complete only for revisions (item 12c), or augmentations (item 12e).

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| Item | |
|---|---|
| 16. | Approximate date project expected to begin (usually associated with estimated date of availability of funding). |
| 17. | Estimated number of months to complete project after Federal funds are available. |
| 18. | Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b. |
| 19. | Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA". |
| 20. | Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP. |
| 21. | Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached. |

## APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

| Item | |
|---|---|
| 22b. | List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached. |
| 23a. | Name and title of authorized representative of legal applicant. |
| 23b. | Self explanatory. |
| 23c. | Self explanatory. |
| *Note:* | Applicant completes only Sections I and II. Section III is completed by Federal agencies. |

## FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

| Item | |
|---|---|
| 24. | Executive department or independent agency having program administration responsibility. |
| 25. | Self explanatory. |
| 26. | Primary organizational unit below department level having direct program management responsibility. |
| 27. | Office directly monitoring the program. |
| 28. | Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice. |
| 29. | Complete address of administering office shown in item 26. |
| 30. | Use to identify award actions where different from Federal application identifier in item 28. |
| 31. | Self explanatory. Use remarks section to amplify where appropriate. |
| 32. | Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding; use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks. |
| 33. | Date action was taken on this request. |
| 34. | Date funds will become available. |
| 35. | Name and telephone no. of agency person who can provide more information regarding this assistance. |
| 36. | Date after which funds will no longer be available. |
| 37. | Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks. |
| 38. | For use with A–95 action notices only. Name and telephone of person who can assure that appropriate A–95 action has been taken—If same as person shown in item 35, write "same". If not applicable, write "NA". |

### *Federal Agency Procedures—special considerations*

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A–95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A–95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A–95 notifications to clearinghouses.

C. *Special note.* In most, but not all States, the A–95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A–95 *award* notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

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* GPO : 1975 O - 210-456 (34-1)

ATTACHMENT N.—CIRCULAR NO. A-110

PROPERTY MANAGEMENT STANDARDS

1. This attachment prescribes uniform standards governing management of property furnished by the Federal Government or whose cost was charged to a project supported by a Federal grant or other agreement. Federal sponsoring agencies shall require recipients to observe these standards under grants and other agreements and shall not impose additional requirements unless specifically required by Federal law. The recipient may use its own property management standards and procedures provided it observes the provisions of this attachment. This attachment also applies to subrecipients as referred to in paragraph 5 of the basic circular.

2. The following definitions apply for the purpose of this attachment:

a. *Real property.*—Real property means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

b. *Personal property.*—Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions and copyrights.

c. *Nonexpendable personal property.*—Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit exempt that recipients subject to Cost Accounting Standards Board regulations may use the CASB standard of $500 per unit and useful life of two years. A recipient may use its own definition of nonexpendable personal property provided that the definition would at least include all tangible personal property as defined above.

d. *Expendable personal property.*—Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. *Excess property.*—Excess property means property under the control of any Federal agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

f. *Acquisition cost of purchased nonexpendable personal property.*—Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

g. *Exempt property.*—Exempt property means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in subparagraph 6a below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.*—Each Federal sponsoring agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired partly or wholly under grants or other agreements. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project, as long as it is needed.

b. The recipient shall obtain approval by the Federal sponsoring agency for the use of real property in other projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under other federally sponsored projects (i.e., grants or other agreements) or programs that have purposes consistent with those authorized for support by the Federal sponsoring agency.

c. When the real property is no longer needed as provided in a and b above, the recipient shall request disposition instructions from the Federal sponsoring agency or its successor Federal sponsoring agency. The Federal sponsoring agency shall observe the following rules in the disposition instructions:

(1) The recipient may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The recipient may be directed to sell the property under guidelines provided by the Federal sponsoring agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government provided that in such cases the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federaly-owned nonexpendable personal property.*—Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal sponsoring agency. Upon completion of the agreement or when the property is no longer needed, the recipient shall report the property to the Federal sponsoring agency for further agency utilization.

If the Federal sponsoring agency has no further need for the property, it shall be declared excess and reported to the General Services Administrtion. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.*—When statutory authority exists, (e.g., P.L. 85-934, 42 U.S.C. 1892) title to nonexpendable personal property acquired with project funds, shall be vested in the recipient upon acquisition unless it is determined that to do so is not in furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient, the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in 6a below.

6. *Other nonexpendable property.*—When other nonexpendable tangible personal property is acquired by a recipient with project funds, title shall not be taken by the Federal Government but shall vest in the recipient subject to the following conditions:

a. *Right to transfer title.*—For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal sponsoring agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or other agreement or otherwise made known to the recipient in writing.

(2) The Federal sponsoring agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal sponsoring agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of subparagraphs 6b and 6c as appropriate.

(3) When the Federal sponsoring agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4, above.

(4) When title is transferred either to the Federal Government or to a third party the provisions of subparagraph 6c(2)(b) should be followed.

b. *Use of other tangible nonexpendable property for which the recipient has title.*

(1) The recipient shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(a) Activities, in the following order of priority:

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.*—During the time that nonexempt nonexpendable personal property is held for use on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

c. *Disposition of other nonexpendable property.*—When the recipient no longer needs the property as provided in 6b above, the property may be used for other activities in accordance with the following standards:

(1) *Nonexpendable property with a unit acquisition cost of less than $1,000.*—The recipient may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) *Nonexpendable personal property with a unit acquisition cost of $1,000 or more.*—The recipient may retain the property for other uses provided that compensation is made to the original Federal sponsoring agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the original sponsoring agency.

The Federal sponsoring agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal sponsoring agency shall issue instructions to the recipient no later than 120 days after the recipient's request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the Federal sponsoring agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(b) If the recipient is instructed to ship the property elsewhere, the recipient shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the recipient's participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incured.

(c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the Federal sponsoring agency for such costs incurred in its disposition.

d. *Property management standards for nonexpendable property.*—The recipient's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property, including grant or other agreement number.

(d) Whether title vests in the recipient or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the Federal sponsoring agency.

(5) Adequately maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.*—Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant or other agreement, and the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

a. *Inventions and patents.*—If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government, such fact shall be promptly and fully reported to the Federal sponsoring agency. Unless there is a prior agreement between the recipient and the Federal sponsoring agency on disposition of such items, the Federal sponsoring agency shall determine whether protection on the invention or discovery shall be sought. The Federal sponsoring agency will also determine how the rights in the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 F.R. 16889).

b. *Copyrights.*—Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal sponsoring agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

ATTACHMENT O.—CIRCULAR NO. A-110

PROCUREMENT STANDARDS

1. This attachment provides standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by the Federal sponsoring agencies upon recipients unless specifically required by Federal statute or executive orders.

2. The standards contained in this attachment do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to the Federal sponsoring agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

3. Recipients may use their own procurement policies and procedures. However, all recipients shall adhere to the standards set forth in paragraphs 3 and 4.

a. The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Federal funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which Federal funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The recipients' officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied for violations of such standards by the recipients' officers, employees or agents.

b. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

c. All recipients shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Federal funds.

(4) The type of procuring instruments used, e.g., fixed price contracts, cost reim-

bursable contracts, purchase orders, incentive contracts, shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Contracts shal be made only with responsible contractors who possess the potentional ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(6) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of the Federal sponsoring agency.

(7) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(8) Procurement records and files for purchases in excess of $10,000 shall include the following:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained;

(c) Basis for award cost or price.

(9) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

4. The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

a. Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded for more than $100,000, recipients shall observe the bonding requirements provided in Attachment B to this circular.

d. All contracts awarded by recipients and their contractors or subgrantees having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60).

e. All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

f. When required by the Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal sponsoring agency.

g. Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the contract or agreement are subject to the regulations issued by the Federal sponsoring agency and the recipient. The contractor shall be advised as to the source of additional information regarding these matters.

i. All negotiated contracts (except those of $10,000 or less) awarded by recipients shall include a provision to the effect that the recipient, the Federal sponsoring agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

j. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clear Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended. Violations shall be reported to the Federal sponsoring agency and the Regional Office of the Environmental Protection Agency.

[FR Doc.76-21904 Filed 7-29-76;8:45 am]

ATTACHMENT B

Office of Education Agreement Covering Institutional Participation in Programs of Student Financial Aid

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF HIGHER EDUCATION
DIVISION OF STUDENT FINANCIAL AID

# AGREEMENT COVERING INSTITUTIONAL PARTICIPATION IN PROGRAMS OF STUDENT FINANCIAL AID

Pursuant to and subject to the provisions of parts A and C of Title IV of the Higher Education Act of 1965 (P.L. 89-329), as amended, and Title II of the National Defense Education Act of 1958 (P.L. 85-864), as amended, and the Regulations issued pursuant thereto

Princeton University, Princeton, New Jersey 08540
Name and Location of Institution

(hereinafter referred to as the "Institution") and the Commissioner of Education, U.S. Department of Health, Education, and Welfare (hereinafter referred to as the "Commissioner") in order to provide for the conduct of each of the programs of student financial aid identified in Article I hereof (hereinafter referred to as the "Programs") hereby agree to the terms of Articles, I, II, and VII, and so much of the remaining Articles of this Agreement as are applicable to each program identified in Article I hereof.

## ARTICLE I. SCOPE OF COVERAGE

This Agreement covers the Institution's participation in each of the following checked programs:

[X] EDUCATIONAL OPPORTUNITY GRANTS PROGRAM (EOGP)
Part A, Title IV of the Higher Education Act of 1965

[X] COLLEGE WORK-STUDY PROGRAM (CWSP)
Part C, Title IV of the Higher Education Act of 1965

[X] NATIONAL DEFENSE STUDENT LOAN PROGRAM (NDSLP)
Title II of the National Defense Education Act of 1958

and becomes effective on the date executed by the Commissioner: Provided, however, that if the Institution already has an agreement in effect with the Commissioner providing for the conduct of any of these programs, this Agreement will be effective and will supersede any such agreement as of July 1, 1969.

ARTICLE II. GENERAL PROVISIONS APPLICABLE TO ALL PROGRAMS

1. The Institution shall use the funds which may be granted to it from time to time pursuant to applications submitted under this Agreement to the extent specified in such grant award for making deposits into its National Defense Student Loan Fund, for making payments to students who have received Educational Opportunity Grants, or for compensating students who are employed under the Institution's College Work-Study Program. An amount not in excess of 3% per fiscal year of:

(a) The Institution's expenditures from its allocation of Federal funds for such year for Educational Opportunity Grants,
(b) its total expenditures for such year for compensation (including the non-Federal share of such compensation) of students under its College Work-Study Program,
(c) the principal amount of loans made from its National Defense Student Loan Fund during such year

may, in the case of the College Work-Study and Educational Opportunity Grants programs, be withdrawn from their respective allocations or, in the case of the National Defense Student Loan Program, from its Fund, by the Institution as a payment in lieu of reimbursement for administrative expenses: Provided, however, that the total of the amounts so withdrawn for a particular fiscal year may not exceed $125,000.

2. The Institution shall: (a) maintain adequate records reflecting the transactions under each of the Programs, including withdrawals for administrative expenses, which records shall include sufficient information to indicate the basis of approval or disapproval of each student application for assistance; (b) retain such records for such periods of time as may be prescribed by the Commissioner; (c) submit such reports and information as the Commissioner may reasonably require in connection with the administration of the Programs; and (d) comply with such procedures as he may find necessary to insure the accuracy of such records and reports.

3. The institution shall use systematic methods for determining the financial need of applicants under the Programs, as indicated in Schedule A.

4. The Institution shall establish procedures for making loans from the Fund, Educational Opportunity Grants and employment under the College Work-Study Program (or equivalent employment offered or arranged for by the Institution) reasonably available (to the extent of available funds) to all students eligible for each particular type of assistance. The Institution shall, to the extent feasible, make

every effort to coordinate such of the Programs for which it has received an allocation of funds and its other financial aid programs.

5. To be eligible for assistance under any of the Programs the student must, among other things, (a) have been accepted for enrollment or in the case of a student already attending an Institution, be in good standing, (b) be capable in the opinion of the Institution of maintaining good standing and (c) be in need of such assistance to pursue his course of study. In addition, in selecting students for employment under its College Work-Study Program, the Institution shall give preference to students from low-income families. Students awarded Educational Opportunity Grants must have exceptional financial need, as determined by the Institution in accordance with criteria and schedules prescribed by the Commissioner, and but for an Educational Opportunity Grant, not financially able to pursue his course of study at such Institution.

6. In addition, in order to be eligible for any assistance provided hereunder, the student must: (a) be a citizen or national of the United States, or in the United States for other than a temporary purpose and intend to become a permanent resident thereof, or a permanent resident of the Trust Territory of the Pacific Islands, and (b) meet the particular program requirements regarding enrollment, good standing, and level of study, as set forth below.

7. The assistance made available pursuant to this Agreement is subject to the Regulations in 45 CFR, Part 80, issued by the Secretary of the Department of Health, Education and Welfare and approved by the President to effectuate the provision of Section 601 of the Civil Rights Act of 1964.

8. The Institution shall take such steps as are necessary and appropriate to assure that the financial assistance provided for under this agreement is not made available to students where prohibited by Section 504 of the Higher Education Amendments of 1968 (P.L. 90-575), or Section 411 of the DHEW Appropriation Act of 1969 (P.L. 90-557).

## ARTICLE III. MAINTENANCE OF EFFORT

1. For each fiscal year for which it receives an allocation of funds under either the College Work-Study Program or Educational Opportunity Grants Program, or both, the Institution shall continue to expend, in its other student aid programs from sources other than funds received under this Agreement (or agreements superseded by this Agreement), an amount which is not less than the average expenditure per year made for that purpose during the three fiscal years preceding (a) the effective

date of this Agreement, or (b) the fiscal year for which the Institution receives its first allocation of funds under either the College Work-Study Program, or (c) the fiscal year for which the Institution receives its first allocation of funds under the Educational Opportunity Grants Program, whichever is latest.

2. The Institution shall not be deemed to have failed to meet the requirements of paragraph 1 of this Article if its inability to expend the amount required thereunder is solely attributable to the withdrawal of funds for student aid programs from outside sources.

## ARTICLE IV. SPECIAL TERMS APPLICABLE TO THE EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

1. The Institution shall make Grants available only to those full-time undergraduate students who meet the eligibility criteria stated in Article II, paragraphs 5 and 6.

2. The amount of the Grant and its duration shall be determined and payments thereunder shall be made in accordance with such policies and procedures as the Commissioner may prescribe.

3. The Institution shall make vigorous effort to identify youths of exceptional need and encourage them to continue their education beyond secondary school through such methods as:

(a) Establishing or strengthening close working relationships with other institutions of higher education, secondary school principals, guidance and counseling personnel, and community action agencies with a view toward motivating students to complete secondary school and pursue post-secondary school education opportunities; and

(b) Making, to the extent feasible, conditional commitments for Educational Opportunity Grants to secondary school students with special emphasis on students enrolled in grade 11 or lower who show evidences of academic or creative promise.

## ARTICLE V. SPECIAL TERMS APPLICABLE TO THE COLLEGE WORK-STUDY PROGRAM

1. The Institution will conduct a program of part-time employment of eligible students in work for the Institution itself, except in the case of proprietary institution of higher education, or work in the public interest for a public or private non-profit organization, other than the Institution, under a written arrangement between the Institution and such organization.

2. Any such work:

a. Must not result in the displacement of employed workers or impair existing contracts for services;

b. Must be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee:

c. Must not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

d. Must not involve any partisan or nonpartisan political activity associated with a candidate, or contending faction or group in an election for public or party office.

3. The Institution shall be responsible for ensuring that any public or private nonprofit organization with which it enters into an arrangement is a reliable organization with professional direction and staff, and that the work to be performed by the student is in the public interest, properly supervised, and consistent with the purpose of the program. In no event shall work be considered to be in the public interest where (a) it is work for which the political support or affiliation of the student is a prequisite or consideration for employment, (b) it is work to be performed for an elected official other than as part of the regular administration of Federal, State or local government, or (c) it is work which is primarily for the benefit of members of a limited membership organization (such as a credit union, fraternal order or a cooperative) rather than the public.

4. In making employment available under the College Work-Study Program, the Institution shall give preference to students from low-income families and shall make such employment available only to (a) students who meet the eligibility requirements stated in Article II, paragraphs 5 and 6 and (b) students who (i) are full-time undergraduate, graduate or professional students or (ii) in cases where the Institution is an area vocational school, have a certificate of graduation from a secondary school or the recognized equivalent thereof and are full-time students pursuing a program of education and training which requires at least six months to complete and is designed to prepare them for gainful employment in a recognized occupation.

5. The Institution shall provide that the hours of employment of a student under the College Work-Study Program shall not exceed an average of fifteen per week during periods of regular enrollment during which the student is enrolled in classes. Employment during periods of non-regular enrollment during which classes in which the student is enrolled are in session and during all other periods shall be in accordance with program regulations.

6. The Federal share of the compensation of students employed in a College Work-Study Program covered by this Agreement shall not exceed 80 percent of such compensation for part-time employment, except in unusual cases as may be approved by the Commissioner pursuant to program regulations.

ARTICLE VI. SPECIAL TERMS APPLICABLE TO NATIONAL DEFENSE STUDENT LOAN PROGRAM

1. The Institution shall establish a National Defense Student Loan Fund for the purpose of making loans to eligible students. There shall be deposited promptly in such Fund:

(a) Federal Capital Contributions received by the Institution pursuant to Section 203 of the Act;

(b) An amount, equal to not less than one-ninth of such Federal contributions, to be provided by the Institution;

(c) Collections of principal and interest on student loans made from the Fund;

(d) Charges collected pursuant to Section 205(c) of the Act; and

(e) Any other earnings of the Fund.

2. The Fund shall be used only for loans to students in accordance with this Agreement; for capital distributions as provided in Section 206 of the Act; for withdrawals pursuant to Article II, paragraph I, of this Agreement; and for costs of litigation, and other collection costs as agreed to by the Commissioner arising in connection with the collection of any loan from the Fund or interest thereon, or any charges assessed pursuant to Section 205(c) of the Act.

3. The Fund shall be deposited and carried in a special account of the Institution.

4. No payments shall be made from the Fund to any student unless such student has taken and subscribed to the oath or affirmation specified in section 1001 (f) (I) of the Act.

5. The Institution shall accept responsibility for and use due diligence in effecting the collection of the principal and interest due and payable on loans made from the Fund.

6. Proprietary Institutions shall meet such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance under this program to students has not, and will not, increase the tuition, fees or other charges of the Institution.

7. The Institution shall make loans under this program available only to those full-or half-time undergraduate, graduate or professional students who meet the eligibility requirements stated in Article II, paragraph 5 and 6.

## ARTICLE VII. TERMINATION AND SUSPENSION OF AGREEMENT

1. This Agreement shall terminate on the first anniversary of its effective date. It is the intention of the parties either to extend this Agreement or to enter into a new Agreement for subsequent years. This Agreement, however, may be terminated by either party upon 90-days notice to the other party. Termination shall not effect obligations previously incurred by either party under the Agreement. In the event of termination the Commissioner will advise the Institution as to what procedures are to be employed in terminating the Institution's operations hereunder.

2. If the Commissioner finds that any of the assurances or representations made in connection with this Agreement or any application for funds hereunder to be incomplete or incorrect in any material respect or that there has been a failure to comply with any of the provisions of the Agreement, he may after notice of and an opportunity afforded for a hearing take such action as

may be necessary and appropriate to protect the interests of the United States.

For the Commissioner

JUL 9 1969
Date

For the Institution

RICARDO A. MESTRES
Financial Vice President and Treasurer
Title *

July 3, 1969
Date

*An officer legally authorized to execute this Agreement for and on behalf of the Institution.

This agreement covers participation of

Princeton University, Princeton, New Jersey
Name and Location of Institution

in each of the following checked programs:

[X] Educational Opportunity Grants Program (P.L. 89-329) as amended

[X] College Work-Study Program (P.L. 89-329) as amended

[X] National Defense Student Loan Program (P.L. 85-864) as amended

Schedule A

The following method(s) of student financial need assessment will be in use during the period covered by this agreement. Check the appropriate box(s).

[ ] American College Testing Program - Financial Need Analysis

[X] College Scholarship Service

[ ] Income Tax Method

[ ] Alternate Income System

[ ] Other (Specify major elements in the system if this entry checked). Attach additional sheet if necessary.



GSA DC 69-14443

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

# REQUEST FOR EXTENSION OF AGREEMENT COVERING INSTITUTIONAL PARTICIPATION IN PROGRAMS OF STUDENT FINANCIAL AID FOR FISCAL YEAR 1977

Please read instructions before completing this form.

FORM APPROVED O.M.B. NO. 51-R0477

ENTITY NO. 1 – 21-0634501

OE VENDOR NO. 002-627

| NAME OF INSTITUTION | ADDRESS (street, city, State, and ZIP code) |
|---|---|
| Princeton University | Princeton, New Jersey 08540 |

With respect to the "Agreement Covering Institutional Participation in Programs of Student Financial Aid" previously entered into between the Commissioner of Education and the above-named Institution, the Institution hereby submits this request for an extension of such Agreement through June 30, 1977.

It is understood that the Commissioner of Education's approval of the extension, with respect to each such program, will be signified by the issuance of a grant letter for participation in Fiscal Year 1977 for each program. The Institution will be specifically notified in the event the Commissioner does not agree to grant any part of the requested extension.

The requested Extension of Agreement is with respect to the Institution's participation in each of the following checked programs:

| ADP | | |
|---|---|---|
| 691 | [x] | NATIONAL DIRECT STUDENT LOAN PROGRAM (NDSLP)<br>Part E, Title IV of the Higher Education Act of 1965 |
| 692 | [x] | COLLEGE WORK-STUDY PROGRAM (CWSP)<br>Part C, Title IV of the Higher Education Act of 1965 |
| 693 | [x] | SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM (SEOGP)<br>Part A, Subpart 2, Title IV of the Higher Education Act of 1965 |

If the institution is participating in any of the programs checked above for the first time in Fiscal Year 1977, the Institution hereby agrees to the terms of the Articles of the Agreement applicable to that program.

The institution certifies that the following system(s) of student financial need assessment, approved in accordance with program regulations, will be used for the awarding of Federal funds to dependent and independent students for Fiscal Year 1977. *(This information supersedes Schedule A of the Agreement or Extension of Agreement for the immediate preceding year.)*:

| ADP | | |
|---|---|---|
| | | **Dependent students** |
| 600 | ☐ | American College Testing Program - Financial Need Analysis |
| 601 | ☐ | Basic Educational Opportunity Grant - Family Contribution Schedule |
| 602 | ☒ | College Scholarship Service |
| 603 | ☐ | Income Tax System as defined in 45 CFR 176.13(b) |
| 604 | ☐ | Other, specify _____ |
| | | **Independent students** |
| 605 | ☐ | American College Testing Program - Financial Need Analysis |
| 606 | ☐ | Basic Educational Opportunity Grant - Family Contribution Schedule |
| 607 | ☒ | College Scholarship Service |
| 608 | ☐ | Other, specify _____ |

For the Institution

| SIGNATURE* | NAME AND TITLE | DATE |
|---|---|---|
| Carl W. Schafer | Carl W. Schafer, Treasurer | 10/9/75 |

* An officer legally authorized to execute this Extension of Agreement for and on behalf of the Institution.

| TELEPHONE | | |
|---|---|---|
| AREA CODE | NUMBER | EXTENSION |
| 609 | 452-3108 | |



INSTITUTIONAL FILE COPY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF POSTSECONDARY EDUCATION
WASHINGTON, D.C. 20202

RECEIVED
MAY 13 1977
UNDERGRADUATE FINANCIAL AID

DATE: APRIL 20, 1977

In Reply Refer to:
OE BPE DSSSP PSB

DR WILLIAM BOWEN
PRESIDENT
PRINCETON UNIVERSITY

PRINCETON NJ 08540

THIS IS AN OFFICIAL ALLOCATION LETTER FOR THE SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

Grant Period: July 1, 1976 through June 30, 1977

| | | | TOTAL AWARD |
|---|---|---|---|
| Entity Number (EN): 121062450IA1 | ~~INIT~~ ADJUSTMENT | | |
| Document Number: | Initial: | | $ 13 |
| Document Number: PCC7742556 | Continuing: +$ | 10,000 | $ 13 |
| | Total: | | $ 26 |

Dear President:

We are pleased to approve the level of Federal expenditures as specified above for the operation of your Supplemental Educational Opportunity Grants Program under pertinent statutes, the applicable regulations, and your application for the grant period July 1, 1976 through June 30, 1977.

For those institutions entering the program for the first time during this grant period, this letter constitutes authority to begin your program on or after the date on which the Terms of Agreement covering the operation of the program have been executed for the Commissioner of Education.

The approved level of Federal expenditures for your institution may not be exceeded during the grant period ending June 30, 1977.

Payment will be made under the DHEW Federal Assistance Financing System at the National Institutes of Health. Questions pertaining only to payments should be directed to the Division of Financial Management, National Institutes of Health, Room 426, Westwood Building, Bethesda, Maryland 20014, telephone (area code 301) 496-7316. Whenever you contact NIH, you should refer to the entity number shown above.

CAN 62003123 (DECREASE)

CAN 72003123 (INCREASE)

APPROPRIATION NO: 75X/7C293

Sincerely yours,

James G. Allen

James G. Allen
Chief, Program Support Branch
Division of Student Support and Special Programs

OE FORM 1316-2, 2/76

O.C. 41.31

ATTACHMENT C

HR 7691

Essentially the same as the Chiles Bill S. 431 except for italics.

Union Calendar No. 269

95TH CONGRESS
1ST SESSION

# H. R. 7691

[Report No. 95-481]

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1977

Mr. BROOKS (for himself, Mr. HORTON, and Mr. STEED) introduced the following bill; which was referred to the Committee on Government Operations

JULY 1, 1977

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

# A BILL

To distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group

representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation, *or to increase basic knowledge and understanding in a specific area of relevance to agency missions*, authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other

recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose ~~or support of~~ *of support or* stimulation, *or to increase basic knowledge and understanding in a specific area of relevance to agency missions,* authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar ar-

rangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the

extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients, and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of section 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

*GUIDELINES*

*SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative*

*guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements as defined in this Act.*

REPEALS AND SAVINGS PROVISIONS

SEC. ~~9~~. *10.* (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; ~~2~~ *42* U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of

any executive agency from the application of the provisions of this Act. This authority shall expire ~~one hundred and eighty days~~ *one year* after receipt by the Congress of the study provided for in section 8 of this Act.